

Article 13.

Department of Public Safety.

Part 1. General Provisions.

§ 143B-600. Organization.

(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary.

(b) The powers and duties of the deputy secretaries, commissioners, directors, and the divisions of the Department shall be subject to the direction and control of the Secretary of Public Safety, except that the powers and duties of the following agencies shall be exercised independently of the Secretary in accordance with the following statutes:

- (1) The North Carolina Alcoholic Beverage Control Commission, in accordance with G.S. 18B-200.
- (2) The State Bureau of Investigation, in accordance with G.S. 143B-915. (2011-145, s. 19.1(b); 2011-183, s. 127(c); 2011-195, s. 1(d); 2011-260, s. 6(c); 2011-391, s. 43(a); 2012-83, ss. 8, 64; 2012-168, s. 5(b); 2013-289, s. 2; 2013-360, s. 16D.7(a); 2014-100, s. 15.2A(e); 2016-94, s. 17A.3.)

§ 143B-601. Powers and duties of the Department of Public Safety.

It shall be the duty of the Department of Public Safety to do all of the following:

- (1) Provide assigned law enforcement and emergency services to protect the public against crime and against natural and man-made disasters.
- (2) To plan and direct a coordinated effort by the law enforcement agencies of State government and to ensure maximum cooperation between State and local law enforcement agencies in the fight against crime.
- (3) To prepare annually, in consultation with the Judicial Department and the Department of Justice, a State plan for the State's criminal justice system.
- (4) To serve as the State's chief coordinating agency to control crime, to ensure the safety of the public, and to ensure an effective and efficient State criminal justice system.
- (5) To have charge of investigations of criminal matters particularly set forth in this Article and of such other crimes and areas of concern in the criminal justice system as the Governor may direct.
- (6) To regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State.
- (7) To provide North Carolina National Guard troops trained by the State to federal standards.
- (8) To ensure the preparation, coordination, and currency of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes.
- (9) To develop a plan for a coordinated and integrated electronic communications system for State government and cooperating local agencies, including coordination and integration of existing electronic communications systems.

- (10) To carry out the relevant provisions of Part 2 of this Article, Chapter 148 of the General Statutes, Chapter 15 of the General Statutes, Chapter 15A of the General Statutes, and other provisions of the General Statutes governing the provision of necessary custody, supervision, and treatment to control and rehabilitate criminal offenders and thereby reduce the rate and cost of crime and delinquency.
- (11) To carry out the relevant provisions of Part 3 of this Article, Chapter 7B of the General Statutes, and other provisions of the General Statutes governing juvenile justice and the prevention of delinquent acts by juveniles.
- (12) To provide central storage and management of evidence according to the provisions of Article 13 of Chapter 15A of the General Statutes and create and maintain a databank of statewide storage locations of postconviction evidence or other similar programs.
- (13) To provide central storage and management of rape kits according to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or "Jane Doe" rape kits without victim consent.
- (14) To provide for the storage and management of evidence. (2011-145, s. 19.1(b); 2011-183, s. 127(c); 2011-195, s. 1(d); 2011-391, s. 43(b); 2012-83, s. 65.)

§ 143B-602. Powers and duties of the Secretary of Public Safety.

The Secretary of Public Safety shall have the powers and duties as are conferred on the Secretary by this Article, delegated to the Secretary by the Governor, and conferred on the Secretary by the Constitution and laws of this State. These powers and duties include the following:

- (1) Provision of assistance to other agencies. – The Secretary, through appropriate subunits of the Department, shall, at the request of the Governor, provide assistance to State and local law enforcement agencies, district attorneys, and judges when called upon by them and so directed.
- (2) Coordination of government subunits emergencies. – In the event that the Governor, in the exercise of the Governor's constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of State government to provide protection to the people from natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents, the Secretary, under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized.
- (3) Allocation of State resources during emergencies. – Whenever the Secretary exercises the authority provided in subdivision (2) of this section, the Secretary shall be authorized to utilize and allocate all available State resources as are reasonably necessary to cope with the emergency or disaster, including directing of personnel and functions of State agencies or units thereof for the purpose of performing or facilitating the initial response to the disaster or emergency. Following the initial response, the Secretary, in consultation with the heads of the State agencies which have or appear to have the responsibility for dealing with the emergency or disaster, shall designate one or more lead agencies to be responsible for subsequent phases of the response to the

emergency or disaster. Pending an opportunity to consult with the heads of such agencies, the Secretary may make interim lead agencies designations.

- (4) Reporting of emergencies to the Secretary. – Every department of State government is required to report to the Secretary, by the fastest means practicable, all natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents which appear likely to require the utilization of the services of more than one subunit of State government.
- (5) Rule making. – The Secretary is authorized to adopt rules and procedures for the implementation of this section.
- (6) Powers of Governor and Council of State not superseded. – Nothing contained in this section shall be construed to supersede or modify those powers granted to the Governor or the Council of State to declare and react to a state of disaster as provided in Chapter 166A of the General Statutes, the Constitution, or elsewhere.
- (7) Reporting required prior to grant awards. – Prior to any notification of proposed grant awards to State agencies for use in pursuing the objectives of the Governor's Crime Commission pursuant to sub-subdivisions a. through g. of subdivision (8) of this section, the Secretary shall report to the Senate and House of Representatives Appropriations Committees for review of the proposed grant awards.
- (8) Other powers and duties. – The Secretary has the following additional powers and duties:
 - a. Accepting gifts, bequests, devises, grants, matching funds, and other considerations from private or governmental sources for use in promoting the work of the Governor's Crime Commission.
 - b. Making grants for use in pursuing the objectives of the Governor's Crime Commission.
 - c. Adopting rules as may be required by the federal government for federal grants-in-aid for criminal justice purposes and to implement and carry out the regulatory and enforcement duties assigned to the Department of Public Safety as provided by the various commercial vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes.
 - d. Ascertaining the State's duties concerning grants to the State by the Law Enforcement Assistance Administration of the United States Department of Justice, and developing and administering a plan to ensure that the State fulfills its duties.
 - e. Administering the Assistance Program for Victims of Rape and Sex Offenses.
 - f. Appointing, with the Governor's approval, a special police officer to serve as Chief of the State Capitol Police Division.
 - g. Appointing an employee of the Division of Administration to be the central point of contact for any federal surplus property or purchasing programs.

- h. Being responsible for federal and State liaison activities, victim services, the Victim Services Warehouse, and the storage and management of evidence and other contents housed in the warehouse, and public affairs. (2011-145, s. 19.1(b); 2013-289, s. 3; 2015-241, s. 16A.7(g); 2017-57, s. 16B.10(d).)

§ 143B-602.1. Annual report on trooper training reimbursement agreements.

By January 1, 2021, and annually thereafter, the Secretary shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the following:

- (1) The implementation of the trooper training reimbursement agreements required under G.S. 20-185.1.
- (2) The amount of reimbursements received from individuals who did not remain employed as State Troopers for 36 months after completing training and the amount of reimbursements received from other law enforcement agencies, as required under G.S. 20-185.1(d).
- (3) Program outcomes, including the turnover rate for individuals employed as State Troopers on and after the date the Department of Public Safety implemented the trooper training reimbursement agreements. (2018-5, s. 35.25(h); 2018-97, s. 8.1(c).)

§ 143B-603. LiDAR Reserve.

The "LiDAR Reserve" is established in the Department of Public Safety. Funds in the LiDAR Reserve shall only be used for LiDAR topographical mapping of the State. (2014-100, s. 15.12(a).)

§ 143B-604. State Reentry Council Collaborative.

(a) The Secretary shall establish the State Reentry Council Collaborative (SRCC). The SRCC shall include up to two representatives from each of the following:

- (1) The Division of Motor Vehicles.
- (2) The Department of Health and Human Services.
- (3) The Administrative Office of the Courts.
- (4) The North Carolina Community College System.
- (5) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (6) A nonprofit entity that provides reentry services or reentry programs.
- (7) Any other agency that the Secretary deems relevant.

(b) The Secretary, or the Secretary's designee, shall chair the SRCC which shall meet at least quarterly upon the call of the chair. The SRCC shall study the needs of ex-offenders who have been recently released from a correctional institution and to increase the effectiveness of local reentry councils.

(c) Beginning November 1, 2017, and annually thereafter, the SRCC shall report its findings and recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety. (2017-57, s. 16C.10; 2017-186, s. 3(a).)

Part 1A. Division of Adult Correction and Juvenile Justice.

§ 143B-630. Creation of Division of Adult Correction and Juvenile Justice; powers.

There is hereby created and established a division to be known as the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Division shall have the power and duty to implement Parts 2 and 3 of this Article and shall have such other powers and duties as are set forth in this Chapter and are prescribed by the Secretary of the Department of Public Safety. (2017-186, s. 1(a).)

Part 2. Division of Adult Correction.

Subpart A. General Provisions

§ 143B-700: Repealed by Session Laws 2017-186, s. 1(c), effective December 1, 2017.

§ 143B-701. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – duties.

It shall be the duty of the Division to provide the necessary custody, supervision, and treatment to control and rehabilitate criminal offenders and thereby to reduce the rate and cost of crime and delinquency. (1973, c. 1262, s. 3; 1999-423, s. 7; 2011-145, s. 19.1(h), (s); 2017-186, s. 1(d).)

§ 143B-702. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – rules and regulations.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall adopt rules and regulations related to the conduct, supervision, rights and privileges of persons in its custody or under its supervision. Such rules and regulations shall be filed with and published by the office of the Attorney General and shall be made available by the Division for public inspection. The rules and regulations shall include a description of the organization of the Division. A description or copy of all forms and instructions used by the Division, except those relating solely to matters of internal management, shall also be filed with the office of the Attorney General. (1975, c. 721, s. 2; 2011-145, s. 19.1(h), (s); 2017-186, s. 1(e).)

§ 143B-703. Repair or replacement of personal property.

(a) The Secretary of Public Safety may adopt rules governing repair or replacement of personal property items excluding private passenger vehicles that belong to employees of State facilities within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and that are damaged or stolen by inmates of the State facilities provided that the item is determined by the Secretary to be damaged or stolen on or off facility grounds during the performance of employment and necessary for the employee to have in his possession to perform his assigned duty.

(b) Reimbursement for items damaged or stolen shall not be granted in instances in which the employee is determined to be negligent or otherwise at fault for the damage or loss of the property. Negligence shall be determined by the superintendent of the facility.

(c) The superintendent of the facility shall determine if the person seeking reimbursement has made a good faith effort to recover the loss from all other non-State sources and has failed before reimbursement is granted.

(d) Reimbursement shall be limited to the amount specified in the rules and shall not exceed a maximum of two hundred dollars (\$200.00) per incident. No employee shall receive more than five hundred dollars (\$500.00) per year in reimbursement. Reimbursement is subject to the availability of funds.

(e) The Secretary of Public Safety shall establish by rule an appeals process consistent with Chapter 150B of the General Statutes. (1987, c. 639, s. 1; 1989, c. 189, s. 2; 2011-145, ss. 19.1(h), (i), (s); 2017-186, s. 1(f).)

§ 143B-704. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – functions with respect to adults.

(a) The functions of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall include all functions of the executive branch of the State in relation to corrections and the rehabilitation of adult offenders, including detention, parole, and aftercare supervision, and further including those prescribed powers, duties, and functions enumerated in the laws of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in the Department of Social Rehabilitation and Control and any agency enumerated in Article 14 of Chapter 143A of the General Statutes and laws of this State are hereby transferred to and vested in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

- (1) The State Department of Correction and Commission of Correction,
- (2) Repealed by Session Laws 1999-423, s. 8, effective July 1, 1999.
- (3) The State Probation Commission,
- (4) The State Board of Paroles,
- (5) The Interstate Agreement on Detainers, and
- (6) The Uniform Act for Out-of-State Parolee Supervision.

(c) Repealed by Session Laws 2012-83, s. 9, effective June 26, 2012.

(d) The Division shall establish an alcoholism and chemical dependency treatment program. The program shall consist of a continuum of treatment and intervention services for male and female inmates, established in medium and minimum custody prison facilities, and for male and female probationers and parolees, established in community-based residential treatment facilities.

(e) The Department, in consultation with the Domestic Violence Commission, and in accordance with established best practices, shall establish a domestic violence treatment program for offenders sentenced to a term of imprisonment in the custody of the Department and whose official record includes a finding by the court that the offender committed acts of domestic violence.

The Department shall ensure that inmates, whose record includes a finding by the court that the offender committed acts of domestic violence, complete a domestic violence treatment program prior to the completion of the period of incarceration, unless other requirements, deemed critical by the Department, prevent program completion. In the event an inmate does not complete the program during the period of incarceration, the Department shall document, in the inmate's official record, specific reasons why that particular inmate did not or was not able to complete the program. (1973, c. 1262, s. 4; 1983, c. 682, s. 1; 1987, c. 479; c. 738, s. 111(a); 1989 (Reg. Sess., 1990), c. 994; 1997-57, s. 1; 1999-423, s. 8; 2001-487, s. 47(f); 2004-186, s. 1.2; 2009-372, s. 6; 2011-145, ss. 19.1(h), (k), (s); 2012-83, s. 9; 2017-186, s. 1(g).)

§ 143B-705. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – Alcoholism and Chemical Dependency Treatment Program.

(a) The Program established by G.S. 143B-704 shall be offered in correctional facilities, or a portion of correctional facilities that are self-contained, so that the residential and program space is separate from any other programs or inmate housing, and shall be operational by January 1, 1988, at those facilities as the Secretary or the Secretary's designee may designate.

(b) A Section Chief for the Alcoholism and Chemical Dependency Treatment Program shall be employed and shall report directly to a deputy director for the Division of Adult Correction and Juvenile Justice as designated by the Deputy Commissioner for the Division of Adult Correction and Juvenile Justice. The duties of the Section Chief and staff shall include the following:

- (1) Administer and coordinate all substance abuse programs, grants, contracts, and related functions in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) Develop and maintain working relationships and agreements with agencies and organizations that will assist in developing and operating alcoholism and chemical dependency treatment and recovery programs in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (3) Develop and coordinate the use of volunteers in the Substance Abuse Program.
- (4) Develop and present training programs related to alcoholism and chemical dependency for employees and others at all levels in the agency.
- (5) Develop programs that provide effective treatment for inmates, probationers, and parolees with alcohol and chemical dependency problems.
- (6) Maintain contact with key leaders in the alcoholism and chemical dependency field, the service structure of various community recovery programs, and active supporters of the Correction Program.
- (7) Supervise directly the facility and district program managers, other specialized personnel, and programs that exist or may be developed in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (8) Repealed by Session Laws 2012-83, s. 10, effective June 26, 2012.

(c) In each prison that houses an alcoholism and chemical dependency program, there shall be a unit superintendent under the Section of Prisons of the Division of Adult Correction and Juvenile Justice and other custodial, administrative, and support staff as required to maintain the proper custody level at the facility. The unit superintendent shall be responsible for all matters pertaining to custody and administration of the unit. The Section Chief of the Alcoholism and Chemical Dependency Treatment Program shall designate and direct employees to manage treatment programs at each location. Duties of unit treatment program managers shall include program development and implementation, supervision of personnel assigned to treatment programs, adherence to all pertinent policy and procedural requirements of the Department, and other duties as assigned.

(d) Extensive use may be made of inmates working in the role of ancillary staff, treatment assistants, role models, or study group leaders as the program manager determines. Additional resource people who may be required for specialized treatment activities, presentations, or group work may be employed on a fee or contractual basis.

(e) Admission priorities shall be established as follows:

- (1) Evaluation and referral from reception and diagnostic centers.
- (2) General staff referral.
- (3) Self-referral.

(f) The Program shall include extensive follow-up after the period of intensive treatment. There will be specific plans for each departing inmate for follow-up, including active involvement with Alcoholics Anonymous, community resources, and personal sponsorship. (1987, c. 738, s. 111(c); 1987 (Reg. Sess., 1988), c. 1086, s. 126.1(a); 2002-126, s. 17.7; 2003-141, s. 3; 2011-145, ss. 19.1(h)-(j), (s); 2012-83, s. 10; 2017-186, s. 1(h).)

§ 143B-706: Repealed by Session Laws 2017-57, s. 16C.7, effective July 1, 2017.

§ 143B-707. Reports to the General Assembly.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees in Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

- (1) Details of any new initiatives and expansions or reduction of programs.
- (2) Details on any treatment efforts conducted in conjunction with other departments.
- (3) Utilization of the community-based programs at DART-Cherry and Black Mountain Substance Abuse Treatment Center for Women.
- (4), (5) Repealed by Session Laws 2007-323, s. 17.3(a), effective July 1, 2007.
- (6) Statistical information on the number of current inmates with substance abuse problems that require treatment, the number of treatment slots, the number who have completed treatment, and a comparison of available treatment slots to actual utilization rates. The report shall include this information for each funded program.
- (7) Evaluation of each substance abuse treatment program funded by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Evaluation measures shall include reduction in alcohol and drug dependency, improvements in disciplinary and infraction rates, recidivism (defined as return-to-prison rates), and other measures of the programs' success. (1998-212, s. 17.12(d); 2003-284, s. 16.19; 2007-323, s. 17.3(a); 2011-145, ss. 19.1(h), (s); 2012-83, s. 51; 2017-186, s. 1(j).)

§ 143B-707.1. Report on probation and parole caseloads.

(a) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages and district averages for probation/parole officer positions.
- (2) Data on current span of control for chief probation officers.
- (3) An analysis of the optimal caseloads for these officer classifications.
- (4) The number and role of paraprofessionals in supervising low-risk caseloads.
- (5) The process of assigning offenders to an appropriate supervision level based on a risks assessment.
- (6) Data on cases supervised solely for the collection of court-ordered payments.

(b) The Department of Public Safety shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the following:

- (1) The number of sex offenders enrolled on active and passive GPS monitoring.
- (2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
- (3) The number of violations.
- (4) The number of absconders.
- (5) The projected number of offenders to be enrolled by the end of the fiscal year. (2013-360, s. 16C.10.)

§ 143B-707.2. Mutual agreement parole program report; medical release program report.

(a) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates enrolled in the mutual agreement parole program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

(b) The Department of Public Safety and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety, to the Chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on the number of inmates proposed for release, considered for release, and granted release under Article 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric. (2013-360, s. 16C.11(d); 2013-363, s. 6.5.)

§ 143B-707.3. Medical costs for inmates and juvenile offenders.

(a) The Department of Public Safety shall reimburse those providers and facilities providing approved medical services to inmates and juvenile offenders outside the correctional or juvenile facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The Department shall have the right to audit any given provider to determine the actual prevailing charge to ensure compliance with this provision.

This section does apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care.

(b) The Department of Public Safety shall make every effort to contain medical costs for inmates and juvenile offenders by making use of its own hospital and health care facilities to provide health care services to inmates and juvenile offenders. To the extent that the Department of Public Safety must utilize other facilities and services to provide health care services to inmates and juvenile offenders, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with

available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates and juvenile offenders among all hospitals or other appropriate health care facilities.

(c) The Department of Public Safety shall report quarterly to the Joint Legislative Oversight Committee on Justice and Public Safety and the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety on:

- (1) The percentage of the total inmates and juvenile offenders requiring hospitalization or hospital services who receive that treatment at each hospital.
- (2) through (4) Repealed by Session Laws 2016-94, s. 17C.2A, effective July 1, 2016.
- (4a) The volume of scheduled and emergent services listed by hospital and, of that volume, the number of those services that are provided by contracted and noncontracted providers.
- (4b) The volume of scheduled and emergent admissions listed by hospital and, of that volume, the percentage of those services that are provided by contracted and noncontracted providers.
- (5) The volume of inpatient medical services provided to Medicaid-eligible inmates and juvenile offenders, the cost of treatment, the estimated savings of paying the nonfederal portion of Medicaid for the services, and the length of time between the date the claim was filed and the date the claim was paid.
- (5a) The status of the implementation of the claims processing system and efforts to address the backlog of unpaid claims.
- (6) The hospital utilization, including the amount paid to individual hospitals, the number of inmates and juvenile offenders served, the number of claims, and whether the hospital was a contracted or noncontracted facility.
- (7) The total cost and volume for the previous fiscal quarter for emergency room visits originating from Central Prison and NCCIW Hospitals to UNC Hospitals, UNC Rex Healthcare, and WakeMed Hospital.
- (8) The total payments for Medicaid and nonMedicaid eligible inmates to UNC Hospitals, UNC Rex Healthcare, and WakeMed Hospital, including the number of days between the date the claim was filed and the date the claim was paid.
- (9) A list of hospitals under contract.

Reports submitted on August 1 shall include totals for the previous fiscal year for all the information requested.

(d) The Department of Public Safety shall study whether contracts to provide inmate health services can be expanded to additional hospitals. The Department shall report the findings of its study to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety no later than February 1, 2017. The report shall include a list of hospitals considered for expansion and reasons for or against expanding to each hospital. (2015-241, s. 16C.4; 2016-94, s. 17C.2A.)

§ 143B-707.4. Annual report on safekeepers.

The Department of Public Safety shall report by October 1 of each year to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on county

prisoners housed in the State prison system pursuant to safekeeping orders under G.S. 162-39. The report shall include:

- (1) The number of safekeepers currently housed by the Department.
- (2) A list of the facilities where safekeepers are housed and the population of safekeepers by facility.
- (3) The average length of stay by a safekeeper in one of those facilities.
- (4) The amount paid by counties for housing and extraordinary medical care of safekeepers.
- (5) A list of the counties in arrears for safekeeper payments owed to the Department at the end of the fiscal year. (2015-241, s. 16C.11.)

§ 143B-708. Community service program.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may conduct a community service program. The program shall provide oversight of offenders placed under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and ordered to perform community service hours for criminal violations, including driving while impaired violations under G.S. 20-138.1. This program shall assign offenders, either on supervised or on unsupervised probation, to perform service to the local community in an effort to promote the offender's rehabilitation and to provide services that help restore or improve the community. The program shall provide appropriate work site placement for offenders ordered to perform community service hours. The Division may adopt rules to conduct the program. Each offender shall be required to comply with the rules adopted for the program.

(b) The Secretary of Public Safety may assign one or more employees to each district court district as defined in G.S. 7A-133 to assure and report to the Court the offender's compliance with the requirements of the program. Each county shall provide office space in the courthouse or other convenient place, for the use of the employees assigned to that county.

(c) A fee of two hundred fifty dollars (\$250.00) shall be paid by all persons who participate in the program or receive services from the program staff. Only one fee may be assessed for each sentencing transaction, even if the person is assigned to the program on more than one occasion, or while on deferred prosecution, under a conditional discharge, or serving a sentence for the offense. A sentencing transaction shall include all offenses considered and adjudicated during the same term of court. Fees collected pursuant to this subsection shall be deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which the person is convicted, regardless of whether the person is participating in the program as a condition of parole, of probation imposed by the court, or pursuant to the exercise of authority delegated to the probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of a conditional discharge or a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full before the person may participate in the community service program, except that:

- (1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before the person pays the fee by the court in which the person is convicted; or

- (2) A person performing community service pursuant to a conditional discharge, deferred prosecution or similar agreement may be given an extension of time or allowed to begin community service before the fee is paid by the official or agency representing the State in the agreement.
- (3) A person performing community service as a condition of parole may be given an extension of time to pay the fee by the Post-Release Supervision and Parole Commission. No person shall be required to pay the fee before beginning the community service unless the Commission orders the person to do so in writing.
- (4) A person performing community service as ordered by a probation officer pursuant to authority delegated by G.S. 15A-1343.2 may be given an extension of time to pay the fee by the probation officer exercising the delegated authority.

(d) A person is not liable for damages for any injury or loss sustained by an individual performing community or reparation service under this section unless the injury is caused by the person's gross negligence or intentional wrongdoing. As used in this subsection, "person" includes any governmental unit or agency, nonprofit corporation, or other nonprofit agency that is supervising the individual, or for whom the individual is performing community service work, as well as any person employed by the agency or corporation while acting in the scope and course of the person's employment. This subsection does not affect the immunity from civil liability in tort available to local governmental units or agencies. Notice of the provisions of this subsection shall be furnished to the individual at the time of assignment of community service work by the judicial service coordinator.

(e) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, deferred prosecution, or conditional discharge related to community service, including a willful failure to pay any moneys due the State under any court order or payment schedule adopted by the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the last known address available to the preparer of the notice and reasonably believed to provide actual notice to the person. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. The hearing may be held in the county in which the order requiring the performance of community service was imposed, the county in which the violation occurred, or the county of residence of the person. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation. (1983 (Reg. Sess., 1984), c. 1034, s. 102; 1985, c. 451; 1985 (Reg. Sess., 1986), c. 1012, s. 4; 1987 (Reg. Sess., 1988), c. 1037, s. 118; 1989, c. 752, s. 109; 1995, c. 330, s. 2; c. 507, s. 20(a); 1997-234, s. 2; 1998-217, s. 34; 2001-487, ss. 91(a), (b); 2002-126, s. 29A.1(c); 2009-372, s. 17; 2009-411, s. 2; 2009-451, s. 19.26(c), (e); 2009-575,

s. 16A; 2010-31, s. 19.4(a); 2010-96, s. 28(c); 2010-123, s. 6.3; 2011-145, ss. 19.1(h), (i), (k), (s); 2014-119, s. 2(g); 2017-186, s. 1(k).)

§ 143B-709. Security Staffing.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall conduct:

- (1) On-site postaudits of every prison at least once every three years;
- (2) Regular audits of postaudit charts through the automated postaudit system; and
- (3) Other staffing audits as necessary.

(b) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall update the security staffing relief formula at least every three years. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training. The Division shall survey other states to determine which states use a vacancy factor in their staffing relief formulas. (2002-126, s. 17.5(a), (b); 2005-276, s. 17.4(a); 2011-145, ss. 19.1(h), (s); 2017-186, s. 1(l).)

§ 143B-710: Repealed by Session Laws 2013-289, s. 4, effective July 18, 2013.

§ 143B-711. Division of Adult Correction and Juvenile Justice of the Department of Public Safety – organization.

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be organized initially to include the Post-Release Supervision and Parole Commission, the Section of Prisons of the Division of Adult Correction, the Section of Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment Programs, and such other divisions as may be established under Part 3 of this Article and under the other provisions of the Executive Organization Act of 1973. (1973, c. 1262, s. 6; 1987, c. 738, s. 111(b); 1993, c. 538, s. 41; 1994, Ex. Sess., c. 24, s. 14(b); 2001-95, s. 7; 2011-145, ss. 19.1(h), (j), (s); 2012-83, s. 52; 2014-120, s. 1(i); 2017-186, s. 1(m).)

§ 143B-712: Reserved for future codification purposes.

§ 143B-713: Reserved for future codification purposes.

§ 143B-714: Reserved for future codification purposes.

Subpart B. Board of Correction

§ 143B-715: Repealed by Session Laws 2014-120, s. 1, effective September 18, 2014.

§ 143B-716: Reserved for future codification purposes.

§ 143B-717: Reserved for future codification purposes.

§ 143B-718: Reserved for future codification purposes.

§ 143B-719: Reserved for future codification purposes.

Subpart C. Parole Commission.

§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and duties.

(a) There is hereby created a Post-Release Supervision and Parole Commission of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with the authority to grant paroles, including both regular and temporary paroles, to persons held by virtue of any final order or judgment of any court of this State as provided in Chapter 148 of the General Statutes and laws of the State of North Carolina, except that persons sentenced under Article 81B of Chapter 15A of the General Statutes are not eligible for parole but may be conditionally released into the custody and control of United States Immigration and Customs Enforcement pursuant to G.S. 148-64.1. The Commission shall also have authority to revoke, terminate, and suspend paroles of such persons (including persons placed on parole on or before the effective date of the Executive Organization Act of 1973) and to assist the Governor in exercising his authority in granting reprieves, commutations, and pardons, and shall perform such other services as may be required by the Governor in exercising his powers of executive clemency. The Commission shall also have authority to revoke and terminate persons on post-release supervision, as provided in Article 84A of Chapter 15A of the General Statutes. The Commission shall also have the authority to punish for criminal contempt for willful refusal to accept post-release supervision or to comply with the terms of post-release supervision by a prisoner whose offense requiring post-release supervision is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes. Any contempt proceeding conducted by the Commission shall be in accordance with G.S. 5A-15 as if the Commission were a judicial official.

(b) All releasing authority previously resting in the Commissioner and Commission of Correction with the exception of authority for extension of the limits of the place of confinement of a prisoner contained in G.S. 148-4 is hereby transferred to the Post-Release Supervision and Parole Commission. Specifically, such releasing authority includes work release (G.S. 148-33.1), indeterminate-sentence release (G.S. 148-42), and release of youthful offenders (G.S. 148-49.8), provided the individual considered for work release or indeterminate-sentence release shall have been recommended for release by the Secretary of Public Safety or his designee. No recommendation for release is required for conditional release pursuant to G.S. 148-64.1.

(c) The Commission is authorized and empowered to adopt such rules and regulations, not inconsistent with the laws of this State, in accordance with which prisoners eligible for parole consideration may have their cases reviewed and investigated and by which such proceedings may be initiated and considered. All rules and regulations heretofore adopted by the Board of Paroles shall remain in full force and effect unless and until repealed or superseded by action of the Post-Release Supervision and Parole Commission. All rules and regulations adopted by the Commission shall be enforced by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(d) The Commission is authorized and empowered to impose as a condition of parole or post-release supervision that restitution or reparation be made by the prisoner in accordance with the provisions of G.S. 148-57.1. The Commission is further authorized and empowered to make restitution or reparation a condition of work release in accordance with the provisions of G.S. 148-33.2.

(e) The Commission may accept and review requests from persons placed on probation, parole, or post-release supervision to terminate a mandatory condition of satellite-based

monitoring as provided by G.S. 14-208.43. The Commission may grant or deny those requests in compliance with G.S. 14-208.43.

- (f) The Commission may conduct the following proceedings by videoconference:
 - (1) All hearings regarding violation of conditions of post-release supervision and all hearings regarding violation of conditions of parole.
 - (2) All hearings regarding criminal contempt for willful refusal to accept post-release supervision or comply with the terms of post-release supervision by a prisoner whose offense requiring post-release supervision is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes.
- (g) A hearing officer may conduct the following proceedings by videoconference:
 - (1) Preliminary hearings regarding violation of conditions of post-release supervision.
 - (2) Preliminary hearings regarding violation of conditions of parole. (1973, c. 1262, s. 8; 1975, c. 220; 1977, c. 614, s. 5; c. 732, s. 5; 1993, c. 538, s. 42; 1994, Ex. Sess., c. 21, s. 6; c. 24, s. 14(b); 2006-247, s. 15(i); 2007-213, s. 14; 2008-199, s. 2; 2011-145, ss. 19.1(h), (i), (s); 2011-307, s. 7; 2012-188, s. 7; 2016-77, s. 4(a); 2017-186, s. 1(n).)

§ 143B-721. Post-Release Supervision and Parole Commission – members; selection; removal; chair; compensation; quorum; services.

(a) Effective August 1, 2005, the Post-Release Supervision and Parole Commission shall consist of one full-time member and two half-time members. The three members shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the Commission. The terms of office of any members serving on the Commission on June 30, 2005, shall expire on that date. The terms of office of persons appointed by the Governor as members of the Commission shall be for four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, removal, death or disability of a member shall be for the balance of the unexpired term only.

(a1) Effective August 1, 2012, both half-time commissioners shall begin serving as full-time members of the Commission, and the Post-Release Supervision and Parole Commission shall consist of three full-time members.

(a2) Effective February 1, 2013, an additional member shall be appointed by the Governor to the Commission, and the Post-Release Supervision and Parole Commission shall consist of four full-time members.

(b) All members of the Post-Release Supervision and Parole Commission appointed by the Governor shall possess the recognized ability, training, experience, and character to qualify each person to serve ably on the Commission.

(c) The Governor shall have the authority to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall designate a member of the Commission to serve as chair of the Commission at the pleasure of the Governor.

(d) The granting, denying, revoking, or rescinding of parole, the authorization of work-release privileges to a prisoner, or any other matters of business coming before the Commission for consideration and action shall be decided by majority vote of the full Commission,

except that a three-member panel of the Commission may set the terms and conditions for a post-release supervisee under G.S. 15A-1368.4 and may decide questions of violations thereunder, including the issuance of warrants. In the event of a tie in a vote by the full Commission, the chair shall break the tie with an additional vote.

(e) The members of the Commission shall receive the salary fixed by the General Assembly in the Current Operations Appropriations Act and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6. Notwithstanding any other provision of law, the half-time members of the Commission shall not be subject to the provisions of G.S. 135-3(8)(c).

(f) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Public Safety. (1973, c. 1262, s. 9; 1977, c. 704, s. 1; 1979, c. 2; 1983, c. 709, s. 3; c. 717, s. 80; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1993, c. 337, s. 1; c. 538, s. 43; 1994, Ex. Sess., c. 14, s. 63; c. 24, s. 14(b); 1999-237, s. 18.2; 2005-276, s. 17.25(a); 2006-264, s. 89(a); 2011-145, s. 19.1(i), (s); 2012-142, s. 25.1(g); 2013-196, s. 2; 2013-410, s. 12.1.)

§ 143B-721.1. Parole eligibility reports.

(a) Each fiscal year the Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Public Safety, analyze the amount of time each inmate who is eligible for parole on or before July 1 of the previous fiscal year has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence", for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

(b) For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

- (1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.
- (2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).
- (3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

(c) The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

(d) The Post-Release Supervision and Parole Commission shall report to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House

of Representatives and Senate Appropriations Committees on Justice and Public Safety by April 1 of each year. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and whether an inmate had multiple criminal convictions. The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled. (2015-241, s. 16C.14.)

§ 143B-722: Reserved for future codification purposes.

§ 143B-723: Reserved for future codification purposes.

§ 143B-724: Reserved for future codification purposes.

§ 143B-725: Reserved for future codification purposes.

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§ 143B-778: Reserved for future codification purposes.

§ 143B-779: Reserved for future codification purposes.

Part 3. Juvenile Justice Section.

Subpart A. Creation of Division.

§ 143B-800. Creation of Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

There is hereby created and constituted a section to be known as the " Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety", with the organization, powers, and duties as set forth in this Article or as prescribed by the Director of the Division of Adult Correction and Juvenile Justice. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(p).)

§ 143B-801. Transfer of Office of Juvenile Justice authority to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) All (i) statutory authority, powers, duties, and functions, including directives of S.L. 1998-202, rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations,

reserves, support costs, and other funds of the Office of Juvenile Justice under the Office of the Governor are transferred to and vested in the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6.

(b) The Section shall be considered a continuation of the Office of Juvenile Justice for the purpose of succession to all rights, powers, duties, and obligations of the Office and of those rights, powers, duties, and obligations exercised by the Office of the Governor on behalf of the Office of Juvenile Justice. Where the Office of Juvenile Justice or the Division of Juvenile Justice of the Department of Public Safety is referred to by law, contract, or other document, that reference shall apply to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice. Where the Office of the Governor is referred to by contract or other document, where the Office of the Governor is acting on behalf of the Office of Juvenile Justice, that reference shall apply to the Section.

(c) All institutions previously operated by the Office of Juvenile Justice and the present central office of the Office of Juvenile Justice, including land, buildings, equipment, supplies, personnel, or other properties rented or controlled by the Office or by the Office of the Governor for the Office of Juvenile Justice, shall be administered by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(q).)

§ 143B-802: Reserved for future codification purposes.

§ 143B-803: Reserved for future codification purposes.

§ 143B-804: Reserved for future codification purposes.

Subpart B. General Provisions.

§ 143B-805. Definitions.

In this Part, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.
- (3) County Councils. – Juvenile Crime Prevention Councils created under G.S. 143B-846.
- (4) Court. – The district court division of the General Court of Justice.
- (5) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.

- (6) **(Effective until December 1, 2019)** Delinquent juvenile. – Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.
- (6) **(Effective December 1, 2019)** Delinquent juvenile. –
 - a. Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.
 - b. Any juvenile who, while less than 18 years of age but at least 16 years of age, commits a crime or an infraction under State law or under an ordinance of local government, excluding violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in G.S. 5A-31.
- (7) Detention. – The secure confinement of a juvenile under a court order.
- (8) Detention facility. – A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.
- (9) District. – Any district court district as established by G.S. 7A-133.
- (10) Repealed by Session Laws 2017-186, s. 1(r), effective December 1, 2017.
- (11) Judge. – Any district court judge.
- (12) Judicial district. – Any district court district as established by G.S. 7A-133.
- (13) Juvenile. – Except as provided in subdivisions (6) and (20) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
- (14) Juvenile court. – Any district court exercising jurisdiction under this Chapter.
- (15) Juvenile court counselor. – A person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.
- (16) Post-release supervision. – The supervision of a juvenile who has been returned to the community after having been committed to the Division for placement in a training school.
- (17) Probation. – The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a juvenile court counselor, and may be returned to the court for violation of those conditions during the period of probation.
- (18) Protective supervision. – The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a juvenile court counselor.
- (19) Secretary. – The Secretary of Public Safety.
- (19a) Section. – The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (20) Undisciplined juvenile. –
 - a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and

beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or

- b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.
- (21) Youth development center. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Division. (1998-202, ss. 1(b), 2(a); 2000-137, s. 1(b); 2001-95, ss. 3, 4; 2001-490, s. 2.39; 2008-118, s. 3.12(b); 2011-145, ss. 19.1(l), (m), (t), (ccc); 2011-183, s. 105; 2017-57, s. 16D.4(r); 2017-186, s. 1(r).)

§ 143B-806. Duties and powers of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

- (a) Repealed by Session Laws 2013-289, s. 5, effective July 18, 2013.
- (b) In addition to its other duties, the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice shall have the following powers and duties:
 - (1) Give leadership to the implementation as appropriate of State policy that requires that youth development centers be phased out as populations diminish.
 - (2) Close a State youth development center when its operation is no longer justified and transfer State funds appropriated for the operation of that youth development center to fund community-based programs, to purchase care or services for predelinquents, delinquents, or status offenders in community-based or other appropriate programs, or to improve the efficiency of existing youth development centers, after consultation with the Joint Legislative Commission on Governmental Operations.
 - (3) Administer a sound admission or intake program for juvenile facilities, including the requirement of a careful evaluation of the needs of each juvenile prior to acceptance and placement.
 - (4) Operate juvenile facilities and implement programs that meet the needs of juveniles receiving services and that assist them to become productive, responsible citizens.
 - (5) Adopt rules to implement this Part and the responsibilities of the Secretary and the Division under Chapter 7B of the General Statutes. The Secretary may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments.
 - (6) Ensure a statewide and uniform system of juvenile intake, protective supervision, probation, and post-release supervision services in all district court districts of the State. The system shall provide appropriate, adequate, and uniform services to all juveniles who are alleged or found to be undisciplined or delinquent.

- (7) Establish procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses.
- (8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of juveniles.
- (9) Develop standards, approve yearly program evaluations, and make recommendations based on the evaluations to the General Assembly concerning continuation funding.
- (10) Collect expense data for every program operated and contracted by the Division.
- (11) Develop a formula for funding, on a matching basis, juvenile court and delinquency prevention services as provided for in this Part. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under this Part must maintain the same overall level of effort that existed at the time of the filing of the county assessment of juvenile needs with the Division.

- (12) Assist local governments and private service agencies in the development of juvenile court services and delinquency prevention services and provide information on the availability of potential funding sources and assistance in making application for needed funding.
- (13) Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles.
- (14) Coordinate State-level services in relation to delinquency prevention and juvenile court services so that any citizen may go to one place in State government to receive information about available juvenile services.
- (14a) Develop and administer a system to provide information to victims and complainants regarding the status of pending complaints and the right of a complainant and victim to request review under G.S. 7B-1704 of a decision to not file a petition.
- (15) Appoint the chief court counselor in each district.
- (16) Develop a statewide plan for training and professional development of chief court counselors, court counselors, and other personnel responsible for the care, supervision, and treatment of juveniles. The plan shall include attendance at appropriate professional meetings and opportunities for educational leave for academic study.
- (17) Study issues related to qualifications, salary ranges, appointment of personnel on a merit basis, including chief court counselors, court counselors, secretaries, and other appropriate personnel, at the State and district levels in order to adopt appropriate policies and procedures governing personnel.
- (18) Set, in consultation with the Office of State Human Resources, the salary supplement paid to teachers, instructional support personnel, and school-based administrators who are employed at juvenile facilities and are licensed by the

State Board of Education. The salary supplement shall be at least five percent (5%), but not more than the percentage supplement they would receive if they were employed in the local school administrative unit where the job site is located. These salary supplements shall not be paid to central office staff. Nothing in this subdivision shall be construed to include "merit pay" under the term "salary supplement".

(19) Designate persons, as necessary, as State juvenile justice officers, to provide for the care and supervision of juveniles placed in the physical custody of the Division.

(20) **(Effective December 1, 2019)** Provide for the transportation to and from any State or local juvenile facility of any person under the jurisdiction of the juvenile court for any purpose required by Chapter 7B of the General Statutes or upon order of the court.

(c) Repealed by Session Laws 2017-186, s. 1(s), effective December 1, 2017.

(d) Where Division statistics indicate the presence of minority youth in juvenile facilities disproportionate to their presence in the general population, the Division shall develop and recommend appropriate strategies designed to ensure fair and equal treatment in the juvenile justice system.

(e) The Division may provide consulting services and technical assistance to courts, law enforcement agencies, and other agencies, local governments, and public and private organizations. The Division may develop or assist Juvenile Crime Prevention Councils in developing community needs, assessments, and programs relating to the prevention and treatment of delinquent and undisciplined behavior.

(f) The Division shall develop a cost-benefit model for each State-funded program. Program commitment and recidivism rates shall be components of the model. (1998-202, ss. 1(b), 2(b), 2(f); 1998-217, ss. 57(2), 57(3); 2000-137, s. 1(b); 2001-95, s. 5; 2001-490, s. 2.40; 2003-284, s. 17.2(a); 2005-276, s. 29.19(b); 2006-203, s. 111; 2008-118, s. 3.12(c); 2011-145, ss. 19.1(l), (t); 2012-83, s. 12; 2013-289, s. 5; 2013-360, s. 16D.7(b); 2013-382, s. 9.1(c); 2017-57, ss. 16D.4(s), (w); 2017-186, s. 1(s).)

§ 143B-807. Authority to contract with other entities.

(a) The Section may contract with any governmental agency, person, or association for the accomplishment of its duties and responsibilities. The expenditure of funds under these contracts shall be for the purposes for which the funds were appropriated and not otherwise prohibited by law.

(b) The Section may enter into contracts with, and act as intermediary between, any federal government agency and any county of this State for the purpose of assisting the county to recover monies expended by a county-funded financial assistance program. As a condition of assistance, the county shall agree to hold and save harmless the Section against any claims, loss, or expense which the Section might incur under the contracts by reason of any erroneous, unlawful, or tortious act or omission of the county or its officials, agents, or employees.

(c) The Section and any other appropriate State or local agency may purchase services from public or private agencies providing delinquency prevention programs or juvenile court services, including parenting responsibility classes. The programs shall meet State standards. As institutional populations are reduced, the Section may divert State funds appropriated for institutional programs to purchase the services under the State Budget Act.

(d) Each programmatic, residential, and service contract or agreement entered into by the Section shall include a cooperation clause to ensure compliance with the Section's quality assurance requirements and cost-accounting requirements. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(s1).)

§ 143B-808. Authority to assist private nonprofit foundations.

The Section may provide appropriate services or allow employees of the Section to assist any private nonprofit foundation that works directly with the Section's services or programs and whose sole purpose is to support these services and programs. A Section employee shall be allowed to work with a foundation no more than 20 hours in any one month. These services are not subject to Chapter 150B of the General Statutes.

The board of directors of each private, nonprofit foundation shall secure and pay for the services of the Department of State Auditor or employ a certified public accountant to conduct an annual audit of the financial accounts of the foundation. The board of directors shall transmit to the Section a copy of the annual financial audit report of the private nonprofit foundation. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(s2).)

§ 143B-809. Teen court programs.

(a) All teen court programs administered by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall operate as community resources for the diversion of juveniles pursuant to G.S. 7B-1706(c). A juvenile diverted to a teen court program shall be tried by a jury of other juveniles, and, if the jury finds the juvenile has committed the delinquent act, the jury may assign the juvenile to a rehabilitative measure or sanction, including counseling, restitution, curfews, and community service.

Teen court programs may also operate as resources to the local school administrative units to handle problems that develop at school but that have not been turned over to the juvenile authorities.

(b) Every teen court program that receives funds from Juvenile Crime Prevention Councils shall comply with rules and reporting requirements of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (2001-424, s. 24.8; 2002-126, s. 16.2(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t).)

§ 143B-810. Youth Development Center annual report.

The Department of Public Safety shall report by October 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, and the Fiscal Research Division of the Legislative Services Commission on the Youth Development Center (YDC) population, staffing, and capacity in the preceding fiscal year. Specifically, the report shall include all of the following:

- (1) The on-campus population of each YDC, including the county the juveniles are from.
- (2) The housing capacity of each YDC.
- (3) A breakdown of staffing for each YDC, including number, type of position, position title, and position description.
- (4) The per-bed and average daily population cost for each facility.

- (5) The operating cost for each facility, including personnel and nonpersonnel items.
- (6) A brief summary of the treatment model, education, services, and plans for reintegration into the community offered at each facility.
- (7) The average length of stay in the YDCs.
- (8) The number of incidents of assaults and attacks on staff at each facility. (2013-360, s. 16D.3.)

§ 143B-811. Annual evaluation of community programs and multiple purpose group homes.

The Department of Public Safety shall conduct an annual evaluation of the community programs and of multipurpose group homes. In conducting the evaluation of each of these, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also determine whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202.

The Department shall report the results of the evaluation to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year. (2013-360, s. 16D.1.)

§ 143B-812: Reserved for future codification purposes.

§ 143B-813: Reserved for future codification purposes.

§ 143B-814: Reserved for future codification purposes.

Subpart C. Juvenile Facilities.

§ 143B-815. Juvenile facilities.

In order to provide any juvenile in a juvenile facility with appropriate treatment according to that juvenile's need, the Section shall be responsible for the administration of statewide educational, clinical, psychological, psychiatric, social, medical, vocational, and recreational services or programs. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t1).)

§ 143B-816. Authority to provide necessary medical or surgical care.

The Section may provide any medical and surgical treatment necessary to preserve the life and health of juveniles committed to the custody of the Section; however, no surgical operation may be performed except as authorized in G.S. 148-22.2. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t2).)

§ 143B-817. Compensation to juveniles in care.

A juvenile who has been committed to the Section may be compensated for work or participation in training programs at rates approved by the Secretary within available funds. The Secretary may provide for a reasonable allowance to the juvenile for incidental personal expenses, and any balance of the juvenile's earnings remaining at the time the juvenile is released shall be paid to the juvenile or the juvenile's parent or guardian. The Section may accept grants or funds

from any source to compensate juveniles under this section. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t3).)

§ 143B-818. Visits and community activities.

(a) The Section shall encourage visits by parents or guardians and responsible relatives of juveniles committed to the custody of the Section.

(b) The Section shall develop a program of home visits for juveniles in the custody of the Section. The visits shall begin after the juvenile has been in the custody of the Section for a period of at least six months. In developing the program, the Section shall adopt criteria that promote the protection of the public and the best interests of the juvenile. (1998-202, ss. 1(b), (2)c; 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t4).)

§ 143B-819. Regional detention services.

The Section is responsible for juvenile detention services, including the development of a statewide plan for regional juvenile detention services that offer juvenile detention care of sufficient quality to meet State standards to any juvenile requiring juvenile detention care within the State in a detention facility as follows:

- (1) The Section shall plan with the counties operating a county detention facility to provide regional juvenile detention services to surrounding counties. The Section has discretion in defining the geographical boundaries of the regions based on negotiations with affected counties, distances, availability of juvenile detention care that meets State standards, and other appropriate factors.
- (2) The Section may plan with any county that has space within its county jail system to use the existing space for a county detention facility when needed, if the space meets the State standards for a detention facility and meets all of the requirements of G.S. 153A-221. The use of space within the county jail system shall be constructed to ensure that juveniles are not able to converse with, see, or be seen by the adult population, and juveniles housed in a space within a county jail shall be supervised closely.
- (3) The Section shall plan for and administer regional detention facilities. The Section shall carefully plan the location, architectural design, construction, and administration of a program to meet the needs of juveniles in juvenile detention care. The physical facility of a regional detention facility shall comply with all applicable State and federal standards. The programs of a regional detention facility shall comply with the standards established by the Section. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t5).)

§ 143B-820. State subsidy to county detention facilities.

The Section shall administer a State subsidy program to pay a county that provides juvenile detention services and meets State standards a certain per diem per juvenile. In general, this per diem should be fifty percent (50%) of the total cost of caring for a juvenile from within the county and one hundred percent (100%) of the total cost of caring for a juvenile from another county. Any county placing a juvenile in a detention facility in another county shall pay fifty percent (50%) of the total cost of caring for the juvenile to the Section. The Section may vary the exact funding formulas to operate within existing State appropriations or other funds that may be available to

pay for juvenile detention care. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2011-145, s. 19.1(l), (t); 2017-186, s. 1(t6).)

§ 143B-821. Authority for implementation.

In order to allow for effective implementation of a statewide regional approach to juvenile detention, the Section may:

- (1) Release or transfer a juvenile from one detention facility to another when necessary to administer the juvenile's detention appropriately.
- (2) Plan with counties that operate county detention facilities to provide regional services and to upgrade physical facilities to contract with counties for services and care, and to pay State subsidies to counties providing regional juvenile detention services that meet State standards.
- (3) Allow the State to reimburse law enforcement officers or other appropriate employees of local government for the costs of transportation of a juvenile to and from any juvenile detention facility.
- (4) Seek funding for juvenile detention services from federal sources, and accept gifts of funds from public or private sources. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t7).)

§ 143B-822. Juvenile facility monthly commitment report.

The Department of Public Safety shall report electronically on the first day of each month to the Fiscal Research Division regarding each juvenile correctional facility and the average daily population for the previous month. The report shall include (i) the average daily population for each detention center and (ii) the monthly summary of the Committed Youth Report. (2013-360, s. 16D.4.)

§ 143B-823: Reserved for future codification purposes.

§ 143B-824: Reserved for future codification purposes.

§ 143B-825: Reserved for future codification purposes.

§ 143B-826: Reserved for future codification purposes.

§ 143B-827: Reserved for future codification purposes.

§ 143B-828: Reserved for future codification purposes.

§ 143B-829: Reserved for future codification purposes.

Subpart D. Juvenile Court Services.

§ 143B-830. Duties and powers of chief court counselors.

The chief court counselor in each district appointed under G.S. 143B-806(b)(15) may:

- (1) Appoint juvenile court counselors, secretaries, and other personnel authorized by the Section in accordance with the personnel policies adopted by the Section.

- (2) Supervise and direct the program of juvenile intake, protective supervision, probation, and post-release supervision within the district.
- (3) Provide in-service training for staff as required by the Section.
- (4) Keep any records and make any reports requested by the Secretary in order to provide statewide data and information about juvenile needs and services.
- (5) Delegate to a juvenile court counselor or supervisor the authority to carry out specified responsibilities of the chief court counselor to facilitate the effective operation of the district.
- (6) Designate a juvenile court counselor in the district as acting chief court counselor, to act during the absence or disability of the chief court counselor. (1998-202, ss. 1(b), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2009-320, s. 1; 2011-145, s. 19.1(l), (t), (ddd); 2017-186, s. 1(t8).)

§ 143B-831. Duties and powers of juvenile court counselors.

As the court or the chief court counselor may direct or require, all juvenile court counselors shall have the following powers and duties:

- (1) Secure or arrange for any information concerning a case that the court may require before, during, or after the hearing.
- (2) Prepare written reports for the use of the court.
- (3) Appear and testify at court hearings.
- (4) Assume custody of a juvenile as authorized by G.S. 7B-1900, or when directed by court order.
- (5) Furnish each juvenile on probation or protective supervision and that juvenile's parents, guardian, or custodian with a written statement of the juvenile's conditions of probation or protective supervision, and consult with the juvenile's parents, guardian, or custodian so that they may help the juvenile comply with the conditions.
- (6) Keep informed concerning the conduct and progress of any juvenile on probation or under protective supervision through home visits or conferences with the parents or guardian and in other ways.
- (7) See that the juvenile complies with the conditions of probation or bring to the attention of the court any juvenile who violates the juvenile's probation.
- (8) Make periodic reports to the court concerning the adjustment of any juvenile on probation or under court supervision.
- (9) Keep any records of the juvenile's work as the court may require.
- (10) Account for all funds collected from juveniles.
- (11) Serve necessary court documents pertaining to delinquent and undisciplined juvenile matters.
- (12) Assume custody of juveniles under the jurisdiction of the court when necessary for the protection of the public or the juvenile, and when necessary to carry out the responsibilities of juvenile court counselors under this section and under Chapter 7B of the General Statutes.
- (13) Use reasonable force and restraint necessary to secure custody assumed under subdivision (12) of this section.
- (14) Provide supervision for a juvenile transferred to the counselor's supervision from another court or another state, and provide supervision for any juvenile

released from an institution operated by the Section when requested by the Section to do so.

- (15) Assist in the implementation of any order entered pursuant to G.S. 5A-32 as directed by a judicial official exercising jurisdiction under that section.
- (16) Assist in the development of post-release supervision and the supervision of juveniles.
- (17) Screen and evaluate a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
- (18) Have any other duties as the court may direct.
- (19) Have any other duties as the Section may direct. (1998-202, ss. 1(b), 2(d), 2(e), 2(f); 1998-217, s. 57(3); 2000-137, s. 1(b); 2001-490, s. 2.41; 2007-168, s. 7; 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t9).)

§ 143B-832: Reserved for future codification purposes.

§ 143B-833: Reserved for future codification purposes.

§ 143B-834: Reserved for future codification purposes.

§ 143B-835: Reserved for future codification purposes.

§ 143B-836: Reserved for future codification purposes.

§ 143B-837: Reserved for future codification purposes.

§ 143B-838: Reserved for future codification purposes.

§ 143B-839: Reserved for future codification purposes.

Subpart E. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

§ 143B-840. Comprehensive Juvenile Delinquency and Substance Abuse Prevention Plan.

(a) The Section shall develop and implement a comprehensive juvenile delinquency and substance abuse prevention plan and shall coordinate with County Councils for implementation of a continuum of services and programs at the community level.

The Section shall ensure that localities are informed about best practices in juvenile delinquency and substance abuse prevention.

(b) The plan shall contain the following:

- (1) Identification of the risk factors at the developmental stages of a juvenile's life that may result in delinquent behavior.
- (2) Identification of the protective factors that families, schools, communities, and the State must support to reduce the risk of juvenile delinquency.
- (3) Programmatic concepts that are effective in preventing juvenile delinquency and substance abuse and that should be made available as basic services in the communities, including:
 - a. Early intervention programs and services.

- b. In-home training and community-based family counseling and parent training.
- c. Adolescent and family substance abuse prevention services, including alcohol abuse prevention services, and substance abuse education.
- d. Programs and activities offered before and after school hours.
- e. Life and social skills training programs.
- f. Classes or seminars that teach conflict resolution, problem solving, and anger management.
- g. Services that provide personal advocacy, including mentoring relationships, tutors, or other caring adult programs.

(c) The Section shall cooperate with all other affected State agencies and entities in implementing this section. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, ss. 19.1(l), (t); 2012-83, s. 13; 2017-186, s. 1(t10).)

§ 143B-841: Reserved for future codification purposes.

§ 143B-842: Reserved for future codification purposes.

§ 143B-843: Reserved for future codification purposes.

§ 143B-844: Reserved for future codification purposes.

Subpart F. Juvenile Crime Prevention Councils.

§ 143B-845. Legislative intent.

It is the intent of the General Assembly to prevent juveniles who are at risk from becoming delinquent. The primary intent of this Subpart is to develop community-based alternatives to youth development centers and to provide community-based delinquency, substance abuse, and gang prevention strategies and programs. Additionally, it is the intent of the General Assembly to provide noninstitutional dispositional alternatives that will protect the community and the juveniles.

These programs and services shall be planned and organized at the community level and developed in partnership with the State. These planning efforts shall include appropriate representation from local government, local public and private agencies serving juveniles and their families, local business leaders, citizens with an interest in youth problems, youth representatives, and others as may be appropriate in a particular community. The planning bodies at the local level shall be the Juvenile Crime Prevention Councils. (1998-202, s. 1(b); 2000-137, s. 1(b); 2001-95, s. 5; 2008-56, s. 2; 2011-145, s. 19.1(t), (eee).)

§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of commissioners of a county shall appoint a Juvenile Crime Prevention Council. Each County Council is a continuation of the corresponding Council created under G.S. 147-33.61. The County Council shall consist of not more than 26 members and should include, if possible, the following:

- (1) The local school superintendent, or that person's designee;
- (2) A chief of police in the county;

- (3) The local sheriff, or that person's designee;
- (4) The district attorney, or that person's designee;
- (5) The chief court counselor, or that person's designee;
- (6) The director of the area mental health, developmental disabilities, and substance abuse authority, or that person's designee;
- (7) The director of the county department of social services, or consolidated human services agency, or that person's designee;
- (8) The county manager, or that person's designee;
- (9) A substance abuse professional;
- (10) A member of the faith community;
- (11) A county commissioner;
- (12) Two persons under the age of 18 years, one of whom is a member of the State Youth Council;
- (13) A juvenile defense attorney;
- (14) The chief district court judge, or a judge designated by the chief district court judge;
- (15) A member of the business community;
- (16) The local health director, or that person's designee;
- (17) A representative from the United Way or other nonprofit agency;
- (18) A representative of a local parks and recreation program; and
- (19) Up to seven members of the public to be appointed by the board of commissioners of a county.

The board of commissioners of a county shall modify the County Council's membership as necessary to ensure that the members reflect the racial and socioeconomic diversity of the community and to minimize potential conflicts of interest by members.

(b) Two or more counties may establish a multicounty Juvenile Crime Prevention Council under subsection (a) of this section. The membership shall be representative of each participating county.

(c) The members of the County Council shall elect annually the chair and vice-chair. (1998-202, s. 1(b); 2000-137, s. 1(b); 2001-199, s. 1; 2011-145, s. 19.1(t).)

§ 143B-847. Terms of appointment.

Each member of a County Council shall serve for a term of two years, except for initial terms as provided in this section. Each member's term is a continuation of that member's term under G.S. 147-33.62. Members may be reappointed. The initial terms of appointment began January 1, 1999. In order to provide for staggered terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 143B-846(a) were appointed for an initial term ending on June 30, 2000. The initial term of the second member added to each County Council pursuant to G.S. 143B-846(a)(12) shall begin on July 1, 2001, and end on June 30, 2002. After the initial terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 143B-846(a) shall be appointed for two-year terms, beginning on July 1. All other persons appointed to the Council were appointed for an initial term ending on June 30, 2001, and, after those initial terms, persons shall be appointed for two-year terms beginning on July 1. (1998-202, s. 1(b); 1999-423, s. 15; 2000-137, s. 1(b); 2001-199, s. 2; 2011-145, s. 19.1(t), (fff).)

§ 143B-848. Vacancies; removal.

Appointments to fill vacancies shall be for the remainder of the former member's term.

Members shall be removed only for malfeasance or nonfeasance as determined by the board of county commissioners. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, s. 19.1(t).)

§ 143B-849. Meetings; quorum.

County Councils shall meet at least bimonthly, or more often if a meeting is called by the chair.

A majority of members constitutes a quorum. (1998-202, s. 1(b); 1999-423, s. 16; 2000-137, s. 1(b); 2011-145, s. 19.1(t).)

§ 143B-850. Compensation of members.

Members of County Councils shall receive no compensation but may receive a per diem in an amount established by the board of county commissioners. (1998-202, s. 1(b); 2000-137, s. 1(b); 2011-145, s. 19.1(t).)

§ 143B-851. Powers and duties.

(a) Each County Council shall review annually the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address those needs. In particular, each County Council shall assess the needs of juveniles in the county who are at risk or who have been associated with gangs or gang activity, and the local resources that are established to address those needs. The Council shall develop and advertise a request for proposal process and submit a written plan of action for the expenditure of juvenile sanction and prevention funds to the board of county commissioners for its approval. Upon the county's authorization, the plan shall be submitted to the Section for final approval and subsequent implementation.

(b) Each County Council shall ensure that appropriate intermediate dispositional options are available and shall prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Section.

(c) On an ongoing basis, each County Council shall:

- (1) Assess the needs of juveniles in the community, evaluate the adequacy of resources available to meet those needs, and develop or propose ways to address unmet needs.
- (2) Evaluate the performance of juvenile services and programs in the community. The Council shall evaluate each funded program as a condition of continued funding.
- (3) Increase public awareness of the causes of delinquency and of strategies to reduce the problem.
- (4) Develop strategies to intervene and appropriately respond to and treat the needs of juveniles at risk of delinquency through appropriate risk assessment instruments.
- (5) Provide funds for services for treatment, counseling, or rehabilitation for juveniles and their families. These services may include court-ordered parenting responsibility classes.
- (6) Plan for the establishment of a permanent funding stream for delinquency prevention services.

- (7) Develop strategies to intervene and appropriately respond to the needs of juveniles who have been associated with gang activity or who are at risk of becoming associated with gang activity.

(d) The Councils may examine the benefits of joint program development between counties within the same judicial district. (1998-202, s. 1(b); 2000-137, s. 1(b); 2008-56, s. 3; 2011-145, ss. 19.1(l), (t); 2017-186, s. 1(t11).)

§ 143B-852. Department of Public Safety to report on Juvenile Crime Prevention Council grants.

(a) On or before February 1 of each year, the Department of Public Safety shall submit to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council (JCPC) grants, including the following information:

- (1) The amount of the grant awarded.
- (2) The membership of the local committee or council administering the award funds on the local level.
- (3) The type of program funded.
- (4) A short description of the local services, programs, or projects that will receive funds.
- (5) Identification of any programs that received grant funds at one time but for which funding has been eliminated by the Department.
- (6) The number of at-risk, diverted, and adjudicated juveniles served by each county.
- (7) The Department's actions to ensure that county JCPCs prioritize funding for dispositions of intermediate and community-level sanctions for court-adjudicated juveniles under minimum standards adopted by the Department.
- (8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

(b) On or before February 1 of each year, the Department of Public Safety shall send to the Fiscal Research Division of the Legislative Services Commission an electronic copy of the list and information required under subsection (a) of this section. (2013-360, s. 16D.2(a); 2017-57, s. 16D.3.)

§ 143B-853: Reserved for future codification purposes.

§ 143B-854: Reserved for future codification purposes.

§ 143B-855: Reserved for future codification purposes.

§ 143B-856: Reserved for future codification purposes.

§ 143B-857: Reserved for future codification purposes.

§ **143B-858**: Reserved for future codification purposes.

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§ **143B-862**: Reserved for future codification purposes.

§ **143B-863**: Reserved for future codification purposes.

§ **143B-864**: Reserved for future codification purposes.

§ **143B-865**: Reserved for future codification purposes.

§ **143B-866**: Reserved for future codification purposes.

§ **143B-867**: Reserved for future codification purposes.

§ **143B-868**: Reserved for future codification purposes.

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§ 143B-890: Reserved for future codification purposes.

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§ 143B-896: Reserved for future codification purposes.

§ 143B-897: Reserved for future codification purposes.

§ 143B-898: Reserved for future codification purposes.

§ 143B-899: Reserved for future codification purposes.

Part 4. Law Enforcement.

Subpart A. General Provisions.

§ 143B-900: Recodified as G.S. 143B-911 by Session Laws 2014-100, s. 17.1(i), effective July 1, 2014.

§ 143B-901. Reporting system and database on certain domestic-violence-related homicides; reports by law enforcement agencies required; annual report to the General Assembly.

The Department of Public Safety, in consultation with the North Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting system and database that reflects the number of homicides in the State where the offender and the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the database shall also include the type of personal relationship that existed between the offender and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether there was a pending charge for which the offender was on pretrial release pursuant to G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the Department of Public Safety upon making a determination that a homicide meets the reporting system's criteria. The report shall be made in the format adopted by the Department of Public Safety. The Department of Public Safety shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety, no later than April 1 of each year, with the data collected for the previous calendar year. (2007-14, s. 2; 2014-100, ss. 17.1(g), (rr); 2016-94, s. 17B.2.)

§ 143B-902. Powers and duties of the Department of Public Safety with respect to criminal information.

In addition to its other duties, it shall be the duty of the Department of Public Safety to do all of the following:

- (1) To collect and correlate information in criminal law administration, including crimes committed, arrests made, dispositions on preliminary hearings, prosecutions, convictions, acquittals, punishment, appeals, together with the age, race, and sex of the offender, the necessary data to make a trace regarding all firearms seized, forfeited, found, or otherwise coming into the possession of any State or local law enforcement agency of the State that are believed to have been used in the commission of a crime, and such other information concerning crime and criminals as may appear significant or helpful. To correlate such information with the operations of agencies and institutions charged with the supervision of offenders on probation, in penal and correctional institutions, on parole and pardon, so as to show the volume, variety and tendencies of crime and criminals and the workings of successive links in the machinery set up for the administration of the criminal law in connection with the arrests, trial, punishment, probation, prison parole and pardon of all criminals in North Carolina.
- (2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the Division may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.

- (3) To make scientific study, analysis and comparison from the information so collected and correlated with similar information gathered by federal agencies, and to provide the Governor and the General Assembly with the information so collected biennially, or more often if required by the Governor.
- (4) To perform all the duties heretofore imposed by law upon the Attorney General with respect to criminal statistics.
- (5) Repealed by Session Laws 2014-100, s. 17.1(ss).
- (6) To promulgate rules and regulations for the administration of this Article. (1939, c. 315, s. 2; 1955, c. 1257, ss. 1, 2; 1969, c. 1267, s. 1; 1995, c. 545, s. 2; 1999-26, s. 1; 1999-225, s. 1; 2000-67, s. 17.2(a); 2001-424, s. 23.7(a); 2002-159, s. 18(a); 2012-182, s. 1; 2014-100, ss. 17.1(h), (ss).)

§ 143B-903. Collection of traffic law enforcement statistics.

(a) In addition to its other duties, the Department of Public Safety shall collect, correlate, and maintain the following information regarding traffic law enforcement by law enforcement officers:

- (1) The number of drivers stopped for routine traffic enforcement by law enforcement officers, the officer making each stop, the date each stop was made, the agency of the officer making each stop, and whether or not a citation or warning was issued.
- (2) Identifying characteristics of the drivers stopped, including the race or ethnicity, approximate age, and sex.
- (3) The alleged traffic violation that led to the stop.
- (4) Whether a search was instituted as a result of the stop.
- (5) Whether the vehicle, personal effects, driver, or passenger or passengers were searched, and the race or ethnicity, approximate age, and sex of each person searched.
- (6) Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime, including the basis for the request for consent, or the circumstances establishing probable cause or reasonable suspicion.
- (7) Whether any contraband was found and the type and amount of any such contraband.
- (8) Whether any written citation or any oral or written warning was issued as a result of the stop.
- (9) Whether an arrest was made as a result of either the stop or the search.
- (10) Whether any property was seized, with a description of that property.
- (11) Whether the officers making the stop encountered any physical resistance from the driver or passenger or passengers.
- (12) Whether the officers making the stop engaged in the use of force against the driver, passenger, or passengers for any reason.
- (13) Whether any injuries resulted from the stop.
- (14) Whether the circumstances surrounding the stop were the subject of any investigation, and the results of that investigation.
- (15) The geographic location of the stop; if the officer making the stop is a member of the State Highway Patrol, the location shall be the Highway Patrol District

in which the stop was made; for all other law enforcement officers, the location shall be the city or county in which the stop was made.

(b) For purposes of this section, "law enforcement officer" means any of the following:

- (1) All State law enforcement officers.
- (2) Law enforcement officers employed by county sheriffs or county police departments.
- (3) Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons.
- (4) Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the Department for the calendar year in which the stop was made.

(c) The information required by this section need not be collected in connection with impaired driving checks under G.S. 20-16.3A or other types of roadblocks, vehicle checks, or checkpoints that are consistent with the laws of this State and with the State and federal constitutions, except when those stops result in a warning, search, seizure, arrest, or any of the other activity described in subdivisions (4) through (14) of subsection (a) of this section.

(d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a) of this section shall be assigned an anonymous identification number by the officer's employing agency. The anonymous identifying number shall be public record and shall be reported to the Department to be correlated along with the data collected under subsection (a) of this section. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent jurisdiction to resolve a claim or defense properly before the court.

(e) Any agency subject to the requirements of this section shall submit information collected under subsection (a) of this section to the Department within 60 days of the close of each month. Any agency that does not submit the information as required by this subsection shall be ineligible to receive any law enforcement grants available by or through the State until the information which is reasonably available is submitted.

(f) The Department shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this section during the calendar year commencing on the following January 1. (1939, c. 315, s. 2; 1955, c. 1257, ss. 1, 2; 1969, c. 1267, s. 1; 1995, c. 545, s. 2; 1999-26, s. 1; 1999-225, s. 1; 2000-67, s. 17.2(a); 2001-424, s. 23.7(a); 2002-159, s. 18(a), (b); 2009-544, s. 1; 2012-182, s. 1; 2014-100, ss. 17.1(h), (tt).)

§ 143B-904. Collection of statistics on the use of deadly force by law enforcement officers.

(a) In addition to its other duties, the Department of Public Safety shall collect, maintain, and annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties.

(b) For purposes of this section, "law enforcement officer" means sworn law enforcement officers with the power of arrest, both State and local. (2009-106, s. 1; 2012-182, ss. 1; 2014-100, s. 17.1(h), (uu).)

§ 143B-905. Criminal Information Network.

(a) The Department of Public Safety is authorized to establish, devise, maintain and operate a system for receiving and disseminating to participating agencies information collected, maintained and correlated under authority of G.S. 143B-902. The system shall be known as the Criminal Information Network.

(b) The Department of Public Safety is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies.

(c) The Department of Public Safety, after consultation with participating agencies, shall adopt rules and regulations governing the organization and administration of the Criminal Information Network, including rules and regulations governing the types of information relating to the administration of criminal justice to be entered into the system, and who shall have access to such information. The rules and regulations governing access to the Criminal Information Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and regulations governing access to the Criminal Information Network shall not prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving record or criminal history.

(d) The Department may impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the Criminal Information Network.

- (1) The Department may impose a monthly circuit fee on agencies that access the Criminal Information Network through a circuit maintained and operated by the Department of Public Safety. The amount of the monthly fee is three hundred dollars (\$300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the additional monthly fee is twelve dollars (\$12.00) per device.
- (2) The Department may impose a monthly device fee on agencies that access the Criminal Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is twelve dollars (\$12.00) per device. (1969, c. 1267, s. 2; 1975, c. 716, s. 5; 1977, c. 836; 1993, c. 39, s. 1; 2005-276, ss. 43.4(a), 43.4(b); 2011-145, s. 19.1(h); 2012-83, s. 36; 2012-182, s. 1; 2014-100, ss. 17.1(h), (vv).)

§ 143B-906. Criminal statistics.

It shall be the duty of the State Bureau of Investigation to receive and collect criminal information, to assist in locating, identifying, and keeping records of criminals in this State, and from other states, and to compare, classify, compile, publish, make available and disseminate any and all such information to the sheriffs, constables, police authorities, courts or any other officials of the State requiring such criminal identification, crime statistics and other information respecting crimes local and national, and to conduct surveys and studies for the purpose of determining so far

as is possible the source of any criminal conspiracy, crime wave, movement or cooperative action on the part of the criminals, reporting such conditions, and to cooperate with all officials in detecting and preventing. (1965, c. 1049, s. 1; 1973, c. 1286, s. 19; 1989, c. 772, s. 3; 1989 (Reg. Sess., 1990), c. 814, s. 9; 2000-119, s. 7; 2003-214, s. 1(1); 2014-100, ss. 17.1(k), (zzz).)

§ 143B-907: Reserved for future codification purposes.

§ 143B-908: Reserved for future codification purposes.

§ 143B-909: Reserved for future codification purposes.

§ 143B-910: Reserved for future codification purposes.

Subpart B. State Capitol Police Division.

§ 143B-911. Creation of State Capitol Police Division; powers and duties.

(a) Division Established. – There is created the State Capitol Police Division of the Department of Public Safety with the organization, powers, and duties defined in Article 1 of this Chapter, except as modified in this Part.

(b) Purpose. – The State Capitol Police Division shall serve as a special police agency of the Department of Public Safety. The Chief of the State Capitol Police, appointed by the Secretary pursuant to G.S. 143B-602, with the approval of the Governor, may appoint as special police officers such reliable persons as the Chief may deem necessary.

(c) Appointment of Officers. – Special police officers appointed pursuant to this section may not exercise the power of arrest until they shall take an oath, to be administered by any person authorized to administer oaths, as required by law.

(d) Jurisdiction of Officers. – Each special police officer of the State Capitol Police shall have the same power of arrest as the police officers of the City of Raleigh. Such authority may be exercised within the same territorial jurisdiction as exercised by the police officers of the City of Raleigh, and in addition thereto the authority of a deputy sheriff may be exercised on property owned, leased, or maintained by the State located in the County of Wake.

(e) Public Safety. – The Chief of the State Capitol Police, or the Chief's designee, shall exercise at all times those means that, in the opinion of the Chief or the designee, may be effective in protecting all State buildings and grounds, except for the State legislative buildings and grounds as defined in G.S. 120-32.1(d), and the persons within those buildings and grounds from fire, bombs, bomb threats, or any other emergency or potentially hazardous conditions, including both the ordering and control of the evacuation of those buildings and grounds. The Chief, or the Chief's designee, may employ the assistance of other available law enforcement agencies and emergency agencies to aid and assist in evacuations of those buildings and grounds. (2009-451, s. 17.3(f); 2011-145, ss. 19.1(g), (u), (y); 2014-100, s. 17.1(i); 2015-241, s. 16A.7(f); 2015-267, s. 3; 2017-57, s. 16B.10(c).)

§ 143B-912: Reserved for future codification purposes.

§ 143B-913: Reserved for future codification purposes.

§ 143B-914: Reserved for future codification purposes.

Subpart C. State Bureau of Investigation.

§ 143B-915. Bureau of Investigation created; powers and duties.

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, there is established the State Bureau of Investigation, which shall be administratively located in the Department of Public Safety. The Bureau shall be an independent agency under the direction and supervision of the Director, who shall serve as chief executive officer of the Bureau and shall be solely responsible for all management functions. Notwithstanding any provisions to the contrary, the Director shall have such authority as is necessary to direct and oversee the Bureau, and may delegate any duties and responsibilities necessary to ensure the proper management of the Bureau. The Department of Public Safety shall provide administrative support to the Bureau. The State Bureau of Investigation shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct.

In the personnel of the Bureau shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance. (1937, c. 349, s. 1; 1939, c. 315, s. 6; 2003-214, s. 1(1); 2013-360, s. 17.6(l); 2014-100, s. 17.1(j), (ww); 2015-241, s. 16A.7(a).)

§ 143B-916. SBI liaison.

The State Bureau of Investigation may designate liaison personnel to lobby for legislative action in accordance with Part 5 of Article 8 of Chapter 163A of the General Statutes. (2015-241, s. 16A.7(c); 2017-6, s. 3.)

§ 143B-917. General powers and duties of Director and law enforcement officers of the State Bureau of Investigation.

The Director of the Bureau and other sworn law enforcement officers of the State Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. The Director of the Bureau and other sworn law enforcement officers of the Bureau may give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. They shall also give assistance, when requested, to the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor. (1937, c. 349, s. 5; 1973, c. 47, s. 2; c. 1262, s. 10; 2003-214, s. 1(1); 2011-145, ss. 19.1(h), (q1); 2011-391, s. 43(g); 2012-83, s. 37; 2014-100, ss. 17.1(j), (xx).)

§ 143B-918. Transfer of personnel.

The Director of the State Bureau of Investigation shall have authority to transfer members of the Bureau from one locality in the State to another as he may deem necessary. When any member of the State Bureau of Investigation is transferred from one point to another for the convenience of the State, or otherwise than upon the request of the employee, the Bureau shall be responsible for transporting the household goods, furniture, and personal effects of the employee and members

of his household. (1955, c. 1185, s. 2; 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j).)

§ 143B-919. Investigations of lynchings, election frauds, etc.; services subject to call of Governor; witness fees and mileage for employees.

(a) The Bureau shall, upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of employees of the Bureau may be required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).

(b) The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to Subchapter II of Chapter 163A of the General Statutes. The Governor must give the person being investigated written notice that the Governor intends to request a background investigation at least 10 days prior to the date that the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice.

(c) The State Bureau of Investigation is further authorized, upon request of the Governor or the Attorney General, to investigate the commission or attempted commission of the crimes defined in the following statutes:

- (1) Article 4A of Chapter 14 of the General Statutes;
- (1a) G.S. 14-43.11;
- (2) G.S. 14-277.1;
- (3) G.S. 14-277.2;
- (4) G.S. 14-283;
- (5) G.S. 14-284;
- (6) G.S. 14-284.1;

- (7) G.S. 14-288.2;
- (8) G.S. 14-288.7;
- (9) G.S. 14-288.8;
- (10) G.S. 14-288.20;
- (10a) G.S. 14-288.21;
- (10b) G.S. 14-288.22;
- (10c) G.S. 14-288.23;
- (10d) G.S. 14-288.24;
- (11) G.S. 14-284.2;
- (12) G.S. 14-399(e);
- (12a) G.S. 15A-287 and G.S. 15A-288;
- (13) G.S. 130A-26.1;
- (14) G.S. 143-215.6B;
- (15) G.S. 143-215.88B; and
- (16) G.S. 143-215.114B.

(d) The State Bureau of Investigation is further authorized, upon request of the Governor or Attorney General, to investigate the solicitation, commission, or attempted commission, by means of a computer, computer network, computer system, electronic mail service provider, or the Internet, of the crimes defined in the following statutes:

- (1) G.S. 14-190.6;
- (2) G.S. 14-190.7;
- (3) G.S. 14-190.8;
- (4) G.S. 14-190.14;
- (5) G.S. 14-190.15;
- (6) G.S. 14-190.16;
- (7) G.S. 14-190.17;
- (8) G.S. 14-190.17A;
- (9) G.S. 14-190.18;
- (10) G.S. 14-190.19;
- (11) G.S. 14-202.3;

Upon determining the location of the criminal violation, the State Bureau of Investigation shall promptly notify the sheriff and local law enforcement of its investigation.

(e) All records and evidence collected and compiled by employees of the Bureau shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

(f) In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to any employees of the Bureau who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund. (1937, c. 349, s. 6; 1947, c. 280; 1965, c. 772; 1973, c. 47, s. 2; 1981, c. 822, s. 2; 1987, c. 858, s. 1; c. 867, s. 3; 1991, c. 725, s. 2; 1993, c. 461, s. 2; 1995, c. 407, s. 2; 1999-398, s. 2; 2003-214, s. 1(1); 2005-121, s. 3; 2008-213, s. 88; 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, ss. 17.1(j), (yy); 2017-57, s. 16B.10(a); 2017-6, s. 3.)

§ 143B-920. Department heads to report possible violations of criminal statutes involving misuse of State property to State Bureau of Investigation.

Any person employed by the State of North Carolina, its agencies or institutions, who receives any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property, shall as soon as possible, but not later than three days from receipt of the information or evidence, report such information or evidence to his immediate supervisor, who shall in turn report such information or evidence to the head of the respective department, agency, or institution. The head of any department, agency, or institution receiving such information or evidence shall, within a reasonable time but no later than 10 days from receipt thereof, report such information, excluding damage or loss resulting from motor vehicle accidents or unintentional loss of property, in writing to the Director of the State Bureau of Investigation.

Upon receipt of notification and information as provided for in this section, the State Bureau of Investigation shall, if appropriate, conduct an investigation.

The employees of all State departments, agencies and institutions are hereby required to cooperate with the State Bureau of Investigation, its officers and agents, as far as may be possible, in aid of such investigation.

If such investigation reveals a possible violation of the criminal laws, the results thereof shall be reported by the State Bureau of Investigation to the district attorney of any district if the same concerns persons or offenses in his district. (1977, c. 763; 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j); 2014-115, s. 45(a).)

§ 143B-921. Use of private investigators limited.

No State executive officer, department, agency, institution, commission, bureau, or other organized activity of the State that receives support in whole or in part from the State except for counties, cities, towns, other municipal corporations or political subdivisions of the State or any agencies of these subdivisions, or county or city boards of education may employ a private investigator without the consent of the Director of the State Bureau of Investigation. If the Director of the State Bureau of Investigation determines that it is impracticable for the Bureau to conduct the investigation, the Director of the State Bureau of Investigation shall employ a private investigator and shall fix the compensation for his services. The cost of the private investigator shall be paid from funds credited to the entity requesting the investigation or from the Contingency and Emergency Fund. (1985, c. 479, s. 138; 2003-214, s. 1(1); 2014-100, ss. 17.1(j), (p).)

§ 143B-922. Investigations of child sexual abuse in child care.

The Director of the Bureau may form a task force to investigate and gather evidence following a notification by the director of a county department of social services, pursuant to G.S. 7B-301, that child sexual abuse may have occurred in a child care facility. (1991, c. 593, s. 3; 1991 (Reg. Sess., 1992), c. 923, s. 5; 1997-506, s. 37; 1998-202, s. 13(z); 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j).)

§ 143B-923. Cooperation of local enforcement officers.

All local enforcement officers are hereby required to cooperate with the said Bureau, its officers and agents, as far as may be possible, in aid of such investigations and arrest and apprehension of criminals as the outcome thereof. (1937, c. 349, s. 8; 2003-214, s. 1(1); 2014-100, s. 17.1(j).)

§ 143B-924. Governor authorized to transfer activities of Central Prison Identification Bureau to the new Bureau; photographing and fingerprinting records.

The records and equipment of the Identification Bureau now established at Central Prison shall be made available to the said Bureau of Investigation, and the activities of the Identification Bureau now established at Central Prison may, in the future, if the Governor deem advisable, be carried on by the Bureau hereby established; except that the Bureau established by this Article shall have authority to make rules and regulations whereby the photographing and fingerprinting of persons confined in the Central Prison, or clearing through the Central Prison, or sentenced by any of the courts of this State to service upon the roads, may be taken and filed with the Bureau. (1937, c. 349, s. 2; 1939, c. 315, s. 6; 2003-214, s. 1(1); 2014-100, s. 17.1(j).)

§ 143B-925. Study and report on use of pseudoephedrine products to make methamphetamine.

The State Bureau of Investigation shall study issues regarding the use of pseudoephedrine products to make methamphetamine, including any data on the use of particular pseudoephedrine products in that regard, pertinent law enforcement statistics, trends observed, and other relevant information, and report annually to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, the Legislative Commission on Methamphetamine Abuse, and the Joint Governmental Operations Subcommittee on Justice and Public Safety. (2005-434, s. 8; 2014-100, s. 17.1(l).)

§ 143B-926. Appointment and term of the Director of the State Bureau of Investigation.

(a) The Director of the State Bureau of Investigation shall be appointed by the Governor for a term of eight years subject to confirmation by the General Assembly by joint resolution. The term of office of the Director of the State Bureau of Investigation shall be for eight years; the first full term shall begin July 1, 2015. The name of the person to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1 of the year in which the term for which the appointment is to be made expires. Upon failure of the Governor to submit a name as herein provided, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly shall submit a name of an appointee to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, the residence of the appointee, and that the appointment is made upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the General Assembly from proposing an amendment to any bill making such an appointment. If there is no vacancy in the office of the Director of the State Bureau of Investigation, and a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly, then the Governor shall submit a new name within 30 days.

(b) The Director may be removed from office only by the Governor and solely for the grounds set forth in G.S. 143B-13(b), (c), and (d). In case of a vacancy in the office of the Director of the State Bureau of Investigation for any reason prior to the expiration of the Director's term of office, the name of the Director's successor shall be submitted by the Governor to the General Assembly not later than 60 days after the vacancy arises. If a vacancy arises in the office when the

General Assembly is not in session, an acting Director shall be appointed by the Governor to serve pending confirmation by the General Assembly. However, in no event shall an acting Director serve (i) for more than 12 months without General Assembly confirmation or (ii) after a bill that would confirm the appointment of the person as Director fails a reading in either chamber of the General Assembly. (2014-100, s. 17.1(ppp).)

§ 143B-927. Personnel of the State Bureau of Investigation.

The Director of the State Bureau of Investigation may appoint a sufficient number of assistants who shall be competent and qualified to do the work of the Bureau. The Director shall be responsible for making all hiring and personnel decisions of the Bureau. Notwithstanding the provisions of this Chapter or Chapter 143A of the General Statutes, the Director may hire or fire personnel and transfer personnel within the Bureau. (2014-100, s. 17.1(ttt); 2015-264, s. 20.)

§ 143B-928. Alcohol Law Enforcement Branch to remain separate and discrete component of the State Bureau of Investigation; retention of funds; youth access to tobacco products.

(a) Notwithstanding any overlap between the duties and jurisdiction of the Alcohol Law Enforcement Branch and the remainder of the State Bureau of Investigation, the Alcohol Law Enforcement Branch is a separate and discrete branch of the State Bureau of Investigation and alcohol law enforcement officers are separate and discrete from other sworn law enforcement officers of the Bureau. No funds or positions shall be transferred from budget code 14550, fund code 1401, to any other fund code or budget code except by act of the General Assembly.

(b) Where the General Statutes confer narrower authority on the State Bureau of Investigation than on the Alcohol Law Enforcement Branch, the narrower authority shall not be construed to limit the authority of the Alcohol Law Enforcement Division.

(c) Any funds or property distributed to the Alcohol Law Enforcement Branch as a result of any federal forfeiture proceeding shall only be expended for purposes related to the Alcohol Law Enforcement Branch.

(d) The Alcohol Law Enforcement branch has jurisdiction and primary responsibility to enforce G.S. 14-313 regarding youth access to tobacco products. (2014-100, s. 17.1(vvv); 2017-57, s. 16B.11; 2018-5, s. 16B.3(a).)

§ 143B-929. Operation and management of Information Sharing and Analysis Center.

The State Bureau of Investigation shall operate and manage the Information Sharing and Analysis Center, and its operation and management shall be under the sole direction and control of the Director of the State Bureau of Investigation. The Information Sharing and Analysis Center is authorized to analyze information related to any threat of violence to the safety of any individual associated with (i) an educational property as defined in G.S. 14-269.2 or (ii) a place of worship as defined in G.S. 14-54.1. The Information Sharing and Analysis Center shall promptly notify the sheriff and local law enforcement agency with jurisdiction if (i) a threat is determined to be credible and (ii) the location of the educational property or place of worship associated with the threat, or the location of any individual suspected of creating the threat, is ascertained. The Director of the State Bureau of Investigation and other sworn law enforcement officers of the State Bureau of Investigation may give assistance to sheriffs and police officers when called upon by them and so directed, as provided in G.S. 143B-917. (2015-241, s. 16A.7(d); 2018-67, s. 4.)

Subpart D. Criminal History Record Checks.

§ 143B-930. Criminal history background investigations; fees.

(a) When the Department of Public Safety determines that any person is entitled by law to receive information, including criminal records, from the State Bureau of Investigation, for any purpose other than the administration of criminal justice, the State Bureau of Investigation shall charge the recipient of such information a reasonable fee for retrieving such information. The fee authorized by this section shall not exceed the actual cost of storing, maintaining, locating, editing, researching and retrieving the information, and may be budgeted for the support of the State Bureau of Investigation.

(b) As used in this section, "administration of criminal justice" means the performance of any of the following activities: the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of persons suspected of, accused of or convicted of a criminal offense. The term also includes screening for suitability for employment, appointment or retention of a person as a law enforcement or criminal justice officer or for suitability for appointment of a person who must be appointed or confirmed by the General Assembly, the Senate, or the House of Representatives.

(c) In providing criminal history record checks, the Department of Public Safety shall process requests in the following priority order:

- (1) Administration of criminal justice record checks,
- (2) Mandatory noncriminal justice criminal history record checks,
- (3) Voluntary noncriminal justice criminal history record checks.

(d) Nothing in this section shall be construed as enlarging any right to receive any record of the State Bureau of Investigation. Such rights are and shall be controlled by G.S. 143B-919, 143B-906, 120-19.4A, and other applicable statutes. (1979, c. 816; 1981, c. 832, s. 1; 1987, c. 867, s. 1; 1995 (Reg. Sess., 1996), c. 606, s. 4; 2002-126, s. 29A.12(a); 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o), (zz); 2015-267, s. 1(b).)

§ 143B-931. Criminal record checks of school personnel.

(a) The Department of Public Safety may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Department may also provide a criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the local board of education from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C of the General Statutes.

(b) The Department of Public Safety may provide a criminal history record check to the board of directors of a regional school of a person who is employed at a regional school or of a person who has applied for employment at a regional school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in G.S. 115C-238.73 by fingerprint card to the board of directors of the regional school from the National Repositories of Criminal Histories, in accordance with G.S. 115C-238.73. The information shall be kept confidential by the board of directors of the regional school as provided in G.S. 115C-238.73.

(b1) The Department of Public Safety may provide a criminal history record check to the chancellor operating a University of North Carolina laboratory school of a person who is employed

at a laboratory school or of a person who has applied for employment at a laboratory school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel, as defined in G.S. 116-239.12, by fingerprint card to the chancellor operating the laboratory school from the National Repositories of Criminal Histories, in accordance with G.S. 116-239.12. The information shall be kept confidential by the chancellor operating the laboratory school as provided in G.S. 116-239.12.

(c) The Department of Public Safety may provide a criminal record check to the employer of a person who is employed in a nonpublic school or of a person who has applied for employment in a nonpublic school, if the employee or applicant consents to the record check. For purposes of this subsection, the term nonpublic school is one that is subject to the provisions of Article 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in that Article.

(d) The Department of Public Safety shall charge a reasonable fee for conducting a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(e) The Department of Public Safety may provide a criminal record check to the schools within the Department of Health and Human Services of a person who is employed, applies for employment, or applies to be selected as a volunteer, if the employee or applicant consents to the record check. The Department of Health and Human Services shall keep all information pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General Statutes.

(f) The Department of Public Safety shall adopt rules to implement this section. (1991, c. 705, s. 1; 1993, c. 350, s. 1; 1995, c. 373, s. 2; 1997-443, s. 11A.118(a); 2003-214, s. 1(2); 2011-241, s. 2; 2014-100, ss. 17.1(m), (o); 2017-102, s. 25; 2017-117, s. 3.)

§ 143B-932. Criminal record checks of providers of treatment for or services to children, the elderly, mental health patients, the sick, and the disabled.

(a) Authority. – The Department of Public Safety may provide to any of the following entities a criminal record check of an individual who is employed by that entity, has applied for employment with that entity, or has volunteered to provide direct care on behalf of that entity:

- (1) Hospitals licensed under Chapter 131E of the General Statutes.
- (2) Hospices licensed under Chapter 131E of the General Statutes.
- (3) Child placing agencies licensed under Chapter 131D of the General Statutes.
- (4) Residential child care facilities licensed under Chapter 131D of the General Statutes.
- (5) Hospitals licensed under Chapter 122C of the General Statutes.
- (6) Licensed child care facilities and nonlicensed child care homes regulated by the State.
- (7) Any other organization or corporation, whether for profit or nonprofit, that provides direct care or services to children, the sick, the disabled, or the elderly.

(b) Procedure. – A criminal record check may be conducted by using an individual's fingerprint or any information required by the Department of Public Safety to identify that individual. A criminal record check shall be provided only if the individual whose record is checked consents to the record check. The information shall be kept confidential by the entity that receives the information. Upon the disclosure of confidential information under this section by the entity, the Department may refuse to provide further criminal record checks to that entity.

(c) Foster or Adoptive Parent. – The Department of Public Safety, at the request of a child placing agency licensed under Chapter 131D of the General Statutes or a local department of social

services, may provide a criminal record check of a prospective foster care or adoptive parent if the prospective parent consents to the record check. The information shall be kept confidential and upon the disclosure of confidential information under this section by the agency or department, the Department may refuse to provide further criminal record checks to that agency or department.

(d) Fee. – The Department may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee may not exceed fourteen dollars (\$14.00). (1993, c. 403, s. 1; 1995, c. 453, s. 1; 1995 (Reg. Sess., 1996), c. 606, s. 1; 1997-506, s. 38; 2000-154, s. 5; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-933. Criminal record checks for foster care.

The Department of Public Safety may provide to the Division of Social Services, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories as defined in G.S. 131D-10.2(6a). The Division shall provide to the Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 131D-10.3A(g). The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1995, c. 507, s. 23.26(c); 1997-140, s. 3; 1997-443, s. 11A.118(a); 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-934. Criminal record checks of child care providers.

The Department of Public Safety may provide to the Division of Child Development, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories in accordance with G.S. 110-90.2, of any child care provider, as defined in G.S. 110-90.2. The Division shall provide to the Department of Public Safety, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the child care provider to be checked. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 110-90.2(e). The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1995, c. 507, s. 23.25(b); 1997-443, s. 11A.118(a); 1997-506, s. 39; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-935. Criminal history record checks of employees of and applicants for employment with the Department of Health and Human Services, and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

- a. An applicant for employment or a current employee in a position in the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who provides direct care for a client, patient, student, resident or ward of the Division.
 - b. A person who supervises positions in the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety providing direct care for a client, patient, student, resident or ward of the Division.
 - c. An applicant for employment or a current employee in a position in the Department of Health and Human Services.
 - d. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Health and Human Services.
 - e. A person who has been approved to perform volunteer services for the Department of Health and Human Services.
 - f. An independent contractor or an employee of an independent contractor who has contracted with the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division.
 - g. A person who has been approved to perform volunteer services in or for the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division.
- (2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include

possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the North Carolina Department of Public Safety may provide to the requesting department or division a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department or division shall provide to the Department of Public Safety a form consenting to the check signed by the covered person to be checked and any additional information required by the Department of Public Safety. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall provide to the North Carolina Department of Public Safety the fingerprints of the covered person to be checked, any additional information required by the Department of Public Safety, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information either department receives through the checking of the criminal history is privileged information and for the exclusive use of that department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Health and Human Services or the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in determining whether employment shall be denied:

- (1) The level and seriousness of the crime;
- (2) The date of the crime;

- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and job duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Health and Human Services and the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section. (1997-260, s. 1; 1997-443, s. 11A.118(b); 1998-202, s. 4(f); 2000-137, s. 4(h); 2003-214, s. 1(2); 2005-114, s. 4; 2011-145, s. 19.1(l); 2012-12, s. 2(nn); 2012-83, s. 5; 2014-100, ss. 17.1(m), (o), (q), (aaa); 2015-181, s. 47; 2017-186, ss. 2(jjjjjj), 3(b).)

§ 143B-935.1. Criminal record checks of applicants and current employees who access federal tax information.

(a) The Department of Public Safety may, upon request, provide to the Division of Social Services or Division of Medical Assistance within the Department of Health and Human Services or a county agency the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual is permitted, or will be permitted, to access federal tax information:

- (1) An applicant for employment.
- (2) A current employee.
- (3) A contractual employee or applicant.
- (4) An employee of a contractor.

(b) Along with the request, the requesting agency shall provide the following to the Department of Public Safety:

- (1) The fingerprints of the person who is the subject of the record check.
- (2) A form signed by the person who is the subject of the record check consenting to:
 - a. The criminal record check.
 - b. The use of fingerprints.
 - c. Any other identifying information required by the State and National Repositories.
 - d. Any additional information required by the Department of Public Safety.

(c) The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(d) The requesting agency shall keep all information obtained pursuant to this section confidential.

(e) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2018-5, s. 11C.4.)

§ 143B-936. Criminal record checks required prior to placement for adoption of a minor who is in the custody or placement responsibility of a county department of social services.

The Department of Public Safety may provide to the Division of Social Services, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories as defined in G.S. 48-1-101(5a). The Division shall provide to the Department of Public Safety, along with the request, the fingerprints of any individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information pursuant to this section privileged, as provided in G.S. 48-3-309(f). The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. (1998-229, s. 16; 2003-214, s. 1(2); 2005-114, s. 3; 2014-100, ss. 17.1(m), (o).)

§ 143B-937. Criminal record checks of applicants for auctioneer, apprentice auctioneer, or auction firm license.

The Department of Public Safety may provide to the North Carolina Auctioneers Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for an auctioneer's license under Chapter 85B of the General Statutes. Along with the request, the Commission shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a check of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Commission shall keep all information obtained pursuant to this section confidential. Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (1999-142, s. 9; 2000-140, s. 59(c); 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-938. Criminal record checks of McGruff House Program volunteers.

(a) Authority. – The Department of Public Safety and the Federal Bureau of Investigation may provide to any local law enforcement agency a criminal record check of any individual who applies as a volunteer for the McGruff House Program in that community and a criminal record check of all persons 18 years of age or older who live in the applying household. The North

Carolina criminal record check may also be done by a certified DCI operator within the local law enforcement agency.

(b) Procedure. – A criminal record check must be conducted by using an individual's fingerprints and all identification information required by the Department of Public Safety to identify that individual. A criminal record check shall be provided only if: (i) the individual whose record is checked consents to the record check, and (ii) every individual who is 18 years of age or older who lives in the household also consents to the record check. Refusal to give consent is considered withdrawal of the application. The information shall be kept confidential by the local law enforcement agency that receives the information. If the confidential information is disclosed under this section, the Department may refuse to provide further criminal record checks to that local law enforcement agency. (1999-214, s. 1; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-939. Criminal record checks for adult care homes, nursing homes, home care agencies, and providers of mental health, developmental disabilities, and substance abuse services.

The Department of Public Safety may provide to the following entities the criminal history from the State and National Repositories of Criminal Histories:

- (1) Nursing homes or combination homes licensed under Chapter 131E of the General Statutes.
- (2) Adult care homes licensed under Chapter 131D of the General Statutes.
- (3) Home care agencies licensed under Chapter 131E of the General Statutes.
- (4) Providers licensed under Chapter 122C of the General Statutes, including a contract agency of a provider that is subject to the provisions of Article 4 of that Chapter.

The criminal history shall be provided to nursing homes and home care agencies in accordance with G.S. 131E-265, to adult care homes in accordance with G.S. 131D-40, and to a provider in accordance with G.S. 122C-80. The requesting entity shall provide to the Department of Public Safety, along with the request, the fingerprints of the individual to be checked if a national criminal history record check is required, any additional information required by the Department of Public Safety, and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories. If a national criminal history record check is required, the fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. All information received by the entity shall be kept confidential in accordance with G.S. 131E-265, 131D-40, and 122C-80, as applicable. The Department of Public Safety shall charge a reasonable fee for conducting the checks authorized by this section. The fee for the State check may not exceed fourteen dollars (\$14.00). (2000-154, s. 1; 2003-214, s. 1(2); 2005-4, s. 5(b); 2014-100, ss. 17.1(m), (o).)

§ 143B-940. Criminal record checks of applicants for licensure as registered nurses or licensed practical nurses.

The Department of Public Safety may provide to the North Carolina Board of Nursing from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a registered nurse or licensed practical nurse under Article 9A of Chapter 90 of the

General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2001-371, s. 1; 2003-214, s. 1(2); 2014-100, ss. 17.1(m), (o).)

§ 143B-941. Criminal record checks of applicants for registration, certification, or licensure as a substance abuse professional.

The Department of Public Safety may provide to the North Carolina Substance Abuse Professional Practice Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for registration, certification, or licensure pursuant to Article 5C of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2005-431, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-942. Criminal record checks of applicants for licensure as massage and bodywork therapists.

The Department of Public Safety may provide to the North Carolina Board of Massage and Bodywork Therapy from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 36 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this

section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-224, s. 20; 2014-100, ss. 17.1(m), (o).)

§ 143B-943. Criminal history record checks of applicants to and current members of fire departments and emergency medical services.

(a) Definitions. – The following definitions apply in this section:

- (1) Applicant. – A person who applies for a paid or volunteer position with a fire department or an emergency medical service.
- (2) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for holding a paid or volunteer position with a fire department. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.
- (3) Current member. – A person who serves in a paid or volunteer position with a fire department or an emergency medical service.

(b) When requested by a designated local Homeland Security director, a local fire chief of a rated fire department, a county fire marshal, an emergency services director, or if there is no designated local Homeland Security director, local fire chief of a rated fire department, county fire marshal, or emergency services director, when requested by a local law enforcement agency, the North Carolina Department of Public Safety may provide to the requesting director, chief, marshal, director, or agency an applicant's or current member's criminal history from the State and National Repositories of Criminal Histories. The local Homeland Security director, local fire chief, marshal, director, or local law enforcement agency shall provide to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, any additional information required by the Department of Public Safety, and a form signed by the applicant to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information

required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall keep all information pursuant to this section confidential. Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information the local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency receives through the checking of the criminal history is privileged information and for the exclusive use of that director, chief, marshal, or agency.

(d) If the applicant's or current member's verified criminal history record check reveals one or more convictions covered under subdivision (a)(2) of this section, then the conviction shall constitute just cause for not selecting the applicant for the position or for dismissing the current member from a current position with the local fire department or emergency medical services. The conviction shall not automatically prohibit volunteering or employment; however, the following factors shall be considered by the local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency in determining whether the position shall be denied or the current member dismissed from a current position:

- (1) The level and seriousness of the crime;
- (2) The date of the crime;
- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and the duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The local fire department or emergency medical services may deny the applicant or current member the position or dismiss an applicant or current member who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. This refusal constitutes just cause for the denial of the position or the dismissal from a current position.

(f) The local fire department or emergency medical services may extend a conditional offer of the position pending the results of a criminal history record check authorized by this section.

(g) For purposes of this section, "local fire chief" shall include the fire chief of any bona fide fire department certified to the Commissioner of Insurance with at least a Class 9S rating for insurance grading purposes; "county fire marshal" shall include only fire marshals who are paid employees of a county; and "emergency services director" shall include only emergency services

directors who are paid employees of a city or county. (2003-182, s. 1; 2007-479, s. 1; 2012-12, s. 2(oo); 2014-27, s. 1; 2014-100, ss. 17.1(m), (o), (q); 2015-181, s. 47.)

§ 143B-944. Criminal record checks of applicants for manufactured home manufacturer, dealer, salesperson, or set-up contractor licensure.

The Department of Public Safety may provide to the North Carolina Manufactured Housing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a manufactured home manufacturer, dealer, salesperson, or set-up contractor under Article 9A of Chapter 143 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check, and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-400, s. 12; 2014-100, ss. 17.1(m), (o).)

§ 143B-945. Criminal record checks for municipalities and county governments.

The Department of Public Safety may provide to a city or county from the State and National Repositories of Criminal Histories the criminal history of any person who applies for employment with the city or county. The city or county shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The city or county shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-214, s. 4; 2005-358, s. 1; 2014-100, ss. 17.1(m), (o).)

§ 143B-946. Criminal record checks of applicants for locksmith licensure or apprentice designation.

The Department of Public Safety may provide to the North Carolina Locksmith Licensing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's

fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2003-350, s. 12; 2014-100, ss. 17.1(m), (o).)

§ 143B-947. Criminal record checks for the North Carolina State Lottery Commission and its Director.

The Department of Public Safety may provide to the North Carolina State Lottery Commission and to its Director from the State and National Repositories of Criminal Histories the criminal history of any prospective employee of the Commission and any potential contractor. The North Carolina State Lottery Commission or its Director shall provide to the Department of Public Safety, along with the request, the fingerprints of the prospective employee of the Commission, or of the potential contractor, a form signed by the prospective employee of the Commission, or of the potential contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the prospective employee of the Commission, or potential contractor, shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The North Carolina State Lottery Commission and its Director shall remit any fingerprint information retained by the Commission to alcohol law enforcement agents appointed under Article 5 of Chapter 18B of the General Statutes and shall keep all information obtained pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section. (2005-344, s. 6; 2005-276, s. 31.1(w); 2006-259, s. 8(g); 2006-264, s. 91(c); 2009-570, s. 32(e); 2014-100, ss. 17.1(m), (o).)

§ 143B-948. Criminal record checks of applicants for permit or license to conduct exploration, recovery, or salvage operations and archaeological investigations.

The Department of Public Safety may provide to the Department of Natural and Cultural Resources from the State and National Repositories of Criminal Histories the criminal history of any applicant for a permit or license under Article 3 of Chapter 121 of the General Statutes or Article 2 of Chapter 70 of the General Statutes. Along with the request, the Department of Natural and Cultural Resources shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Natural and Cultural Resources shall keep all information obtained under this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of

locating, editing, researching, and retrieving the information. (2005-367, s. 1; 2014-100, ss. 17.1(m), (o); 2015-241, s. 14.30(s).)

§ 143B-949. Criminal record checks of applicants for licensure and licensees.

The Department of Public Safety may provide to the North Carolina Psychology Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license to practice psychology or a licensed psychologist or psychological associate under Article 18A of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge each applicant or licensee a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2006-175, s. 3; 2006-259, s. 42; 2014-100, ss. 17.1(m), (o).)

§ 143B-950. Criminal record checks for the Judicial Department.

(a) The Department of Public Safety may provide to the Judicial Department from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Judicial Department. The Judicial Department shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Judicial Department shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2006-187, s. 3(a); 2006-259, s. 42; 2014-100, ss. 17.1(m), (o).)

§ 143B-951. Criminal record checks for the Department of Information Technology.

(a) The Department of Public Safety may provide to the Department of Information Technology from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Department of Information Technology. The Department of Information Technology shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, volunteer,

or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Information Technology shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2007-155, s. 3; 2007-189, ss. 3, 5.1; 2014-100, ss. 17.1(m), (o); 2015-241, s. 7A.4(y).)

§ 143B-952. Criminal record checks of EMS personnel.

The Department of Public Safety may provide to the Department of Health and Human Services the criminal history from the State and National Repositories of Criminal Histories of an individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials, when the criminal history is requested by the Department. The Department of Health and Human Services shall provide to the Department of Public Safety the request for the criminal history, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories signed by the individual to be checked. The Department of Health and Human Services and Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall keep all information obtained pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee to offset the costs incurred by it to conduct the checks of criminal history records authorized by this section. (2007-411, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-953. Criminal record checks of applicants for licensure as chiropractic physicians.

The Department of Public Safety may provide to the State Board of Chiropractic Examiners from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 8 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2007-525, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-954. Criminal history record checks of employees of and applicants for employment with the Department of Public Instruction.

(a) Definitions. – As used in this section, the term:

(1) "Covered person" means any of the following:

- a. An applicant for employment or a current employee in a position in the Department of Public Instruction.
- b. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Public Instruction.

(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Public Instruction. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) When requested by the Department of Public Instruction, the North Carolina Department of Public Safety may provide to the requesting department a covered person's criminal history from the State Repository of Criminal Histories. Such request shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department shall provide to the Department of Public Safety a form consenting to the check, signed by the covered person to be checked and any additional information required by the Department of Public Safety. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Public Instruction shall provide to the North Carolina Department of Public Safety the fingerprints of the covered person to be checked, any additional information required by the Department of Public Safety, and a form signed by the covered person

to be checked, consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Instruction shall keep all information pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

(c) All releases of criminal history information to the Department of Public Instruction shall be subject to, and in compliance with, rules governing the dissemination of criminal history record checks as adopted by the North Carolina Department of Public Safety. All of the information the department receives through the checking of the criminal history is privileged information and for the exclusive use of the department.

(d) If the covered person's verified criminal history record check reveals one or more convictions covered under subsection (a) of this section, then the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment with the Department of Public Instruction. The conviction shall not automatically prohibit employment; however, the following factors shall be considered by the Department of Public Instruction in determining whether employment shall be denied:

- (1) The level and seriousness of the crime;
- (2) The date of the crime;
- (3) The age of the person at the time of the conviction;
- (4) The circumstances surrounding the commission of the crime, if known;
- (5) The nexus between the criminal conduct of the person and job duties of the person;
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed; and
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

(e) The Department of Public Instruction may deny employment to or dismiss a covered person who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(f) The Department of Public Instruction may extend a conditional offer of employment pending the results of a criminal history record check authorized by this section. (2007-516, s. 1; 2012-12, s. 2(pp); 2014-100, ss. 17.1(m), (o), (q); 2015-181, s. 47.)

§ 143B-955. Criminal record checks of applicants and of current employees who are involved in the manufacture or production of drivers licenses and identification cards.

(a) The Department of Public Safety may, upon request, provide to the Department of Transportation, Division of Motor Vehicles, the criminal history from the State and National Repositories of Criminal Histories of the following individuals if the individual (i) is or will be involved in the manufacture or production of drivers licenses and identification cards, or (ii) has or will have the ability to affect the identity information that appears on drivers licenses or identification cards:

- (1) An applicant for employment.

- (2) A current employee.
 - (3) A contractual employee or applicant.
 - (4) An employee of a contractor.
- (b) Along with the request, the Division of Motor Vehicles shall provide the following to the Department of Public Safety:
- (1) The fingerprints of the person who is the subject of the record check.
 - (2) A form signed by the person who is the subject of the record check consenting to:
 - a. The criminal record check.
 - b. The use of fingerprints.
 - c. Any other identifying information required by the State and National Repositories.
 - d. Any additional information required by the Department of Public Safety.
- (c) The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
- (d) The Division of Motor Vehicles shall keep all information obtained pursuant to this section confidential.
- (e) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-202, s. 1; 2014-100, ss. 17.1(m), (o).)

§ 143B-956. Criminal history record checks of applicants for licensure as nursing home administrators.

(a) The Department of Public Safety may provide to the North Carolina State Board of Examiners for Nursing Home Administrators from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a nursing home administrator under Article 20 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2008-183, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-957. Criminal record checks of applicants for licensure as professional counselors.

The Department of Public Safety may provide to the North Carolina Board of Licensed Professional Counselors from the State and National Repositories of Criminal Histories the

criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 24 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2009-367, s. 10; 2014-100, ss. 17.1(m), (o).)

§ 143B-958. Criminal history record checks of applicants for licensure as marriage and family therapists and marriage and family therapy associates.

The Department of Public Safety may provide to the North Carolina Marriage and Family Therapy Licensure Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 18C of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2009-393, s. 18; 2014-100, ss. 17.1(m), (o).)

§ 143B-959. Criminal record checks of petitioners for restoration of firearms rights.

(a) A person who petitions the court to have the person's firearms rights restored shall submit a full set of the petitioner's fingerprints, to be administered by the sheriff. The petitioner shall also submit to the sheriff a form signed by the petitioner consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the State Bureau of Investigation or the Federal Bureau of Investigation. The sheriff shall forward the set of fingerprints and the signed consent form to the State Bureau of Investigation for a records check of State and national databases.

(b) Upon receipt of the fingerprints and consent form forwarded by the sheriff pursuant to subsection (a) of this section, the State Bureau of Investigation shall conduct a search of the State criminal history record file and shall forward a set of the fingerprints and a copy of the signed consent form to the Federal Bureau of Investigation for a national criminal history record check.

(c) The State Bureau of Investigation shall provide a copy of the information obtained pursuant to this section to the clerk of superior court, which shall be kept confidential in the court file for the petition for restoration of firearms rights.

(d) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2010-108, s. 2; 2011-2, ss. 1, 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-960. Criminal record checks of applicants for certification by the Department of Agriculture and Consumer Services as euthanasia technicians.

The Department of Public Safety may provide a criminal record check to the Department of Agriculture and Consumer Services for a person who has applied for a new or renewal certification as a euthanasia technician. The Department of Agriculture and Consumer Services shall provide the Department of Public Safety a request for the criminal record check, the fingerprints of the individual to be checked, any additional information required by the Department of Public Safety, and a form signed by the person seeking certification consenting to the check of the criminal record. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Agriculture and Consumer Services shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this section. (2010-127, s. 4; 2014-100, ss. 17.1(m), (o).)

§ 143B-961. Criminal history record checks of applicants for trainee registration, appraiser licensure, appraiser certification, or registrants for registration as real estate appraisal management companies.

The Department of Public Safety may provide to the North Carolina Appraisal Board from the State and National Repositories of Criminal Histories the criminal history of any applicant or registrant for registration under Article 1 and Article 2 of Chapter 93E of the General Statutes. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or registrant, a form signed by the applicant or registrant consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's or registrant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2010-141, s. 2; 2013-403, s. 8; 2014-100, ss. 17.1(m), (o).)

§ 143B-962. Criminal history record checks of applicants for a restoration of a revoked drivers license.

The Department of Public Safety may provide to the Division of Motor Vehicles, from the State and National Repositories of Criminal Histories, the criminal history record of any applicant for a restoration of a revoked drivers license. Along with the request, the Division shall provide to the Department of Public Safety the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints, other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Division shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. Fees and other costs incurred by the Division under this statute may be charged to the applicant. (2011-381, s. 5; 2014-100, ss. 17.1(m), (o).)

§ 143B-963. Criminal history record checks of applicants for and current holders of certificate to transport household goods.

The Department of Public Safety may provide to the Utilities Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for or current holder of a certificate to transport household goods. Along with the request, the Commission shall provide to the Department of Public Safety the fingerprints of the applicant or current holder, a form signed by the applicant or current holder consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The applicant's or current holder's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Utilities Commission shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. The Department of Public Safety shall send a copy of the results of the criminal history record checks directly to the Utilities Commission Chief Clerk. (2012-9, s. 2; 2014-100, ss. 17.1(m), (o).)

§ 143B-964. Criminal history record checks of applicants for licensure as physical therapists or physical therapist assistants.

The Department of Public Safety may provide to the North Carolina Board of Physical Therapy Examiners a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or subject, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Department. The fingerprints shall be forwarded to the State Bureau

of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department of Public Safety to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2013-312, s. 6; 2014-100, ss. 17.1(m), (o).)

§ 143B-965. Criminal record checks of applicants and recipients of programs of public assistance.

(a) Upon receipt of a request from a county department of social services pursuant to G.S. 108A-26.1, the Department of Public Safety shall, to the extent allowed by federal law, provide to the county department of social services the criminal history from the State or National Repositories of Criminal Histories of an applicant for, or recipient of, program assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General Statutes.

(b) The county department of social services shall provide to the Department of Public Safety, along with the request, any information required by the Department of Public Safety and a form signed by the individual to be checked consenting to the check of the criminal record and to the use of any necessary identifying information required by the State or National Repositories. The county department of social services shall keep all information pursuant to this section confidential and privileged, except as provided in G.S. 108A-26.1.

(c) The Department of Public Safety may charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section. (2013-417, s. 3; 2014-100, ss. 17.1(m), (o).)

§ 143B-966. Criminal record checks for the Office of State Controller.

The Department of Public Safety may provide to the Office of State Controller from the State and National Repositories of Criminal Histories the criminal history of any current or prospective employee, volunteer, or contractor of the Office of State Controller. The Office of State Controller shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, volunteer, or contractor, a form signed by the current or prospective employee, volunteer, or contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee, volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Office of State Controller shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2016-28, s. 2.)

§ 143B-967. Criminal record checks for the Department of Revenue.

(a) The Department of Public Safety shall, upon request, provide to the Department of Revenue from the State and National Repositories of Criminal Histories the criminal history of any of the following individuals:

- (1) A current or prospective permanent or temporary employee.
- (2) A contractor with the Department.
- (3) An employee or agent of a contractor with the Department.
- (4) Any other individual otherwise engaged by the Department who will have access to federal tax information.

(b) Along with the request, the Department of Revenue shall provide to the Department of Public Safety the fingerprints of the individual whose record is being sought, a form signed by the individual consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The individual's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Revenue shall keep all information obtained pursuant to this section confidential.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2017-57, s. 32.1.)

§ 143B-968. Criminal record checks for the Office of State Human Resources.

(a) The Department of Public Safety may provide to the Office of State Human Resources from the State and National Repositories of Criminal Histories the criminal history of any prospective temporary employee of a State agency or department if a criminal record check is a requirement for employment by the agency or department with which the individual would be temporarily assigned. The Office of State Human Resources shall provide to the Department of Public Safety, along with the request, the fingerprints of the prospective temporary employee, a form signed by the prospective temporary employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Office of State Human Resources shall keep all information obtained pursuant to this section confidential.

(b) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. If the Department of Public Safety charges the Office of State Human Resources a fee for conducting the criminal record check, the agency or department with which the individual would be temporarily assigned shall reimburse the Office of State Human Resources for the fee charged. (2018-5, s. 26A.1.)

§ 143B-969. Criminal record checks for employees and contractors of the State Board of Elections and Ethics Enforcement and county directors of elections.

(a) As used in this section, the term:

- (1) "Current or prospective employee" means any of the following:
 - a. A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.
 - b. A current or prospective contractor with the State Board.
 - c. An employee or agent of a current or prospective contractor with the State Board.
 - d. Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(2) "State Board" means the State Board of Elections and Ethics Enforcement.

(b) The Department of Public Safety may provide to the Executive Director of the State Board a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The Executive Director shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) The criminal history report shall be provided to the Executive Director of the State Board, who shall keep all information obtained pursuant to this section confidential to the State Board. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2018-13, s. 1(a).)

§ 143B-970. Criminal record checks for employees of county boards of elections.

(a) As used in this section, the term:

(1) "Current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections.

(2) "State Board" means the State Board of Elections and Ethics Enforcement.

(b) The Department of Public Safety may provide to a county board of elections a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The county board of elections shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) The criminal history report shall be provided to the county board of elections, who shall keep all information obtained pursuant to this section confidential to the county board of elections, the county director of elections, the State Board, and the Executive Director of the State Board. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes. (2018-13, s. 1(b).)

§ 143B-971. Criminal record checks of applicants for licensure as dietitian/nutritionists or nutritionists.

The Department of Public Safety may provide to the North Carolina Board of Dietetics/Nutrition a criminal history record from the State and National Repositories of Criminal Histories for applicants for licensure by the Board. Along with a request for criminal history records, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or subject, a form signed by the applicant consenting to the criminal history record check and use of the fingerprints and other identifying information required by the Repositories, and any additional information required by the Department. The fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by the Department of Public Safety to conduct a criminal history record check under this section, but the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. (2018-91, s. 15.)

§ 143B-972: Reserved for future codification purposes.

§ 143B-973: Reserved for future codification purposes.

§ 143B-974: Reserved for future codification purposes.

§ 143B-975: Reserved for future codification purposes.

§ 143B-976: Reserved for future codification purposes.

§ 143B-977: Reserved for future codification purposes.

§ 143B-978: Reserved for future codification purposes.

§ 143B-979: Reserved for future codification purposes.

§ 143B-980: Reserved for future codification purposes.

§ 143B-981. The National Crime Prevention and Privacy Compact.

The National Crime Prevention and Privacy Compact is enacted into law and entered into with all jurisdictions legally joining in the compact in the form substantially as set forth in this section, as follows:

Preamble.

Whereas, it is in the interest of the State to facilitate the dissemination of criminal history records from other states for use in North Carolina as authorized by State law; and

Whereas, the National Crime Prevention and Privacy Compact creates a legal framework for the cooperative exchange of criminal history records for noncriminal justice purposes; and

Whereas, the compact provides for the organization of an electronic information-sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, such as background checks for governmental licensing and employment; and

Whereas, under the compact, the FBI and the party states agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the federal government and party states for authorized purposes; and

Whereas, the FBI shall manage the federal data facilities that provide a significant part of the infrastructure for the system; and

Whereas, entering into the compact would facilitate the interstate and federal-state exchange of criminal history information to streamline the processing of background checks for noncriminal justice purposes; and

Whereas, release and use of information obtained through the system for noncriminal justice purposes would be governed by the laws of the receiving state; and

Whereas, entering into the compact will provide a mechanism for establishing and enforcing uniform standards for record accuracy and for the confidentiality and privacy interests of record subjects.

Article I.

Definitions.

As used in this compact, the following definitions apply:

- (1) "Attorney General" means the Attorney General of the United States.
- (2) "Compact officer" means:
 - a. With respect to the federal government, an official so designated by the director of the FBI; and
 - b. With respect to a party state, the chief administrator of the state's criminal history record repository or a designee of the chief administrator who is a regular, full-time employee of the repository.
- (3) "Council" means the compact council established under Article VI.
- (4) "Criminal history record repository" means the Department of Public Safety.
- (5) "Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release. The term does not include identification information such as fingerprint records if the information does not indicate involvement of the individual with the criminal justice system.

- (6) "Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.
- (7) "Criminal justice agency" means: (i) courts; and (ii) a governmental agency or any subunit of an agency that performs the administration of criminal justice pursuant to a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice. The term includes federal and state inspector general offices.
- (8) "Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.
- (9) "Direct access" means access to the national identification index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.
- (10) "Executive order" means an order of the President of the United States or the chief executive officer of a state that has the force of law and that is promulgated in accordance with applicable law.
- (11) "FBI" means the Federal Bureau of Investigation.
- (12) "III system" means the interstate identification index system, which is the cooperative federal-state system for the exchange of criminal history records. The term includes the national identification index, the national fingerprint file, and, to the extent of their participation in the system, the criminal history record repositories of the states and the FBI.
- (13) "National fingerprint file" means a database of fingerprints or of other uniquely personal identifying information that relates to an arrested or charged individual and that is maintained by the FBI to provide positive identification of record subjects indexed in the III system.
- (14) "National identification index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III system.
- (15) "National indices" means the national identification index and the national fingerprint file.
- (16) "Noncriminal justice purposes" means uses of criminal history records for purposes authorized by federal or state law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.
- (17) "Nonparty state" means a state that has not ratified this compact.
- (18) "Party state" means a state that has ratified this compact.
- (19) "Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that

the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III system. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, does not constitute positive identification.

(20) "Sealed record information" means:

- a. With respect to adults, that portion of a record that is:
 1. Not available for criminal justice uses;
 2. Not supported by fingerprints or other accepted means of positive identification; or
 3. Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a federal or state statute that requires action on a sealing petition filed by a particular record subject; and
- b. With respect to juveniles, whatever each state determines is a sealed record under its own law and procedure.

(21) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article II.

Purposes.

The purposes of this compact are to:

- (1) Provide a legal framework for the establishment of a cooperative federal-state system for the interstate and federal-state exchange of criminal history records for noncriminal justice uses;
- (2) Require the FBI to permit use of the national identification index and the national fingerprint file by each party state and to provide, in a timely fashion, federal and state criminal history records to requesting states, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (3) Require party states to provide information and records for the national identification index and the national fingerprint file and to provide criminal history records, in a timely fashion, to criminal history record repositories of other states and the federal government for noncriminal justice purposes, in accordance with the terms of this compact and with rules, procedures, and standards established by the council under Article VI;
- (4) Provide for the establishment of a council to monitor III system operations and to prescribe system rules and procedures for the effective and proper operation of the III system for noncriminal justice purposes; and
- (5) Require the FBI and each party state to adhere to III system standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

Article III.

Responsibilities of Compact Parties.

- (a) The director of the FBI shall:

- (1) Appoint an FBI compact officer who shall:
 - a. Administer this compact within the Department of Public Safety and among federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);
 - b. Ensure that compact provisions and rules, procedures, and standards prescribed by the council under Article VI are complied with by the Department of Public Safety and federal agencies and other agencies and organizations referred to in sub-subdivision (a)(1)a. of this Article III; and
 - c. Regulate the use of records received by means of the III system from party states when such records are supplied by the FBI directly to other federal agencies;
 - (2) Provide to federal agencies and to state criminal history record repositories criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:
 - a. Information from nonparty states; and
 - b. Information from party states that is available from the FBI through the III system but is not available from the party states through the III system;
 - (3) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV and ensure that the exchange of records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and
 - (4) Modify or enter into user agreements with nonparty state criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.
- (b) Each party state shall:
- (1) Appoint a compact officer who shall:
 - a. Administer this compact within that state;
 - b. Ensure that compact provisions and rules, procedures, and standards established by the council under Article VI are complied with in the state; and
 - c. Regulate the in-state use of records received by means of the III system from the FBI or from other party states;
 - (2) Establish and maintain a criminal history record repository, which shall provide:
 - a. Information and records for the national identification index and the national fingerprint file; and
 - b. The state's III system-indexed criminal history records for noncriminal justice purposes described in Article IV;
 - (3) Participate in the national fingerprint file; and
 - (4) Provide and maintain telecommunications links and related equipment necessary to support the criminal justice services set forth in this compact.
- (c) In carrying out their responsibilities under this compact, the FBI and each party state shall comply with III system rules, procedures, and standards duly established by the council

concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III system operation.

(d) Use of the III system for noncriminal justice purposes authorized in this compact must be managed so as not to diminish the level of services provided in support of criminal justice purposes. Administration of compact provisions may not reduce the level of service available to authorized noncriminal justice users on the effective date of this compact.

Article IV.

Authorized Record Disclosures.

(a) To the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), the FBI shall provide on request criminal history records, excluding sealed record information, to state criminal history record repositories for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(b) The FBI, to the extent authorized by section 552a of Title 5, United States Code (commonly known as the Privacy Act of 1974), and state criminal history record repositories shall provide criminal history records, excluding sealed record information, to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by federal statute, federal executive order, or a state statute that has been approved by the Attorney General to ensure that the state statute explicitly authorizes national indices checks.

(c) Any record obtained under this compact may be used only for the official purposes for which the record was requested. Each compact officer shall establish procedures consistent with this compact and with rules, procedures, and standards established by the council under Article VI, which procedures shall protect the accuracy and privacy of the records and shall:

- (1) Ensure that records obtained under this compact are used only by authorized officials for authorized purposes;
- (2) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and
- (3) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, that an appropriate "no record" response is communicated to the requesting official.

Article V.

Record Request Procedures.

(a) Subject fingerprints or other approved forms of positive identification must be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Each request for a criminal history record check utilizing the national indices made under any approved state statute must be submitted through that state's criminal history record repository. A state criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if the request is transmitted through another state criminal history record repository or the FBI.

(c) Each request for criminal history record checks utilizing the national indices made under federal authority must be submitted through the FBI or, if the state criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the state in which the request originated. Direct access to the national identification

index by entities other than the FBI and state criminal history record repositories may not be permitted for noncriminal justice purposes.

- (d) A state criminal history record repository or the FBI:
 - (1) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and
 - (2) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.
- (e)
 - (1) If a state criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, must be forwarded to the FBI for a search of the national indices.
 - (2) If, with respect to a request forwarded by a state criminal history record repository under subdivision (e)(1) of this Article V, the FBI positively identifies the subject as having a III system-indexed record or records:
 - a. The FBI shall so advise the state criminal history record repository; and
 - b. The state criminal history record repository is entitled to obtain the additional criminal history record information from the FBI or other state criminal history record repositories.

Article VI.

Establishment of Compact Council.

(a) There is established a council to be known as the compact council which has the authority to promulgate rules and procedures governing the use of the III system for noncriminal justice purposes, not to conflict with FBI administration of the III system for criminal justice purposes. The council shall:

- (1) Continue in existence as long as this compact remains in effect;
- (2) Be located, for administrative purposes, within the FBI; and
- (3) Be organized and hold its first meeting as soon as practicable after the effective date of this compact.

(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

- (1) Nine members, each of whom shall serve a two-year term, who must be selected from among the compact officers of party states based on the recommendation of the compact officers of all party states, except that in the absence of the requisite number of compact officers available to serve, the chief administrators of the criminal history record repositories of nonparty states must be eligible to serve on an interim basis;
- (2) Two at-large members, nominated by the director of the FBI, each of whom shall serve a three-year term, of whom:
 - a. One must be a representative of the criminal justice agencies of the federal government and may not be an employee of the FBI; and
 - b. One must be a representative of the noncriminal justice agencies of the federal government;
- (3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to subsection (c) of this Article VI, each of whom shall serve a three-year term, of whom:

- a. One must be a representative of state or local criminal justice agencies; and
- b. One must be a representative of state or local noncriminal justice agencies;
- (4) One member who shall serve a three-year term and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board; and
- (5) One member, nominated by the director of the FBI, who shall serve a three-year term and who must be an employee of the FBI.

(c) From its membership, the council shall elect a chair and a vice-chair of the council. Both the chair and vice-chair of the council: (i) must be a compact officer, unless there is no compact officer on the council who is willing to serve, in which case the chair may be an at-large member and (ii) shall serve two-year terms and may be reelected to only one additional two-year term. The vice-chair of the council shall serve as the chair of the council in the absence of the chair.

(d) The council shall meet at least once each year at the call of the chair. Each meeting of the council must be open to the public. The council shall provide prior public notice in the federal register of each meeting of the council, including the matters to be addressed at the meeting. A majority of the council or any committee of the council shall constitute a quorum of the council or of a committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) The council shall make available for public inspection and copying at the council office within the FBI and shall publish in the federal register any rules, procedures, or standards established by the council.

(f) The council may request from the FBI reports, studies, statistics, or other information or materials that the council determines to be necessary to enable the council to perform its duties under this compact. The FBI, to the extent authorized by law, may provide assistance or information upon a request.

(g) The chair may establish committees as necessary to carry out this compact and may prescribe their membership, responsibilities, and duration.

Article VII.

Ratification of Compact.

This compact takes effect upon being entered into by two or more states as between those states and the federal government. When additional states subsequently enter into this compact, it becomes effective among those states and the federal government and each party state that has previously ratified it. When ratified, this compact has the full force and effect of law within the ratifying jurisdictions. The form of ratification must be in accordance with the laws of the executing state.

Article VIII.

Miscellaneous Provisions.

(a) Administration of this compact may not interfere with the management and control of the director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) Nothing in this compact may require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Nothing in this compact may diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544) or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

Article IX.

Renunciation.

(a) This compact shall bind each party state until renounced by the party state.

(b) Any renunciation of this compact by a party state must:

- (1) Be effected in the same manner by which the party state ratified this compact; and
- (2) Become effective 180 days after written notice of renunciation is provided by the party state to each other party state and to the federal government.

Article X.

Severability.

The provisions of this compact must be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or to the Constitution of the United States or if the applicability of any phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the remainder of the compact to any government, agency, person, or circumstance may not be affected by the severability. If a portion of this compact is held contrary to the constitution of any party state, all other portions of this compact must remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected, as to all other provisions.

Article XI.

Adjudication of Disputes.

(a) The council:

- (1) Has initial authority to make determinations with respect to any dispute regarding:
 - a. Interpretation of this compact;
 - b. Any rule or standard established by the council pursuant to Article VI; and
 - c. Any dispute or controversy between any parties to this compact; and
- (2) Shall hold a hearing concerning any dispute described in subdivision (a)(1) of this Article XI at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. The decision must be published pursuant to the requirements of Article VI(e).

(b) The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, to maintain system policy and standards, to protect the accuracy and privacy of records, and to prevent abuses until the council holds a hearing on the matters.

(c) The FBI or a party state may appeal any decision of the council to the Attorney General and after that appeal may file suit in the appropriate district court of the United States that has original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court must be removed to the appropriate district court of the United States in the manner provided by section 1446 of Title 28, United States Code, or other statutory authority. (2003-214, s. 2; 2004-199, s. 28; 2014-100, ss. 17.1(m), (o), (q).)

§ 143B-982: Reserved for future codification purposes.

§ 143B-983: Reserved for future codification purposes.

§ 143B-984: Reserved for future codification purposes.

§ 143B-985: Reserved for future codification purposes.

Subpart E. Protection of Public Officials.

§ 143B-986. Authority to provide protection to certain public officials.

The North Carolina State Bureau of Investigation is authorized to provide protection to public officials who request it, and who, in the discretion of the Director of the Bureau demonstrate a need for such protection. The Director of the Bureau shall notify the Governor whenever the State Bureau of Investigation provides protection to public officials pursuant to this section. The bureau shall not provide protection for any individual other than the Governor for a period greater than 30 days without review and approval by the Governor. This review and reapproval shall be required at the end of each 30-day period. (1977, c. 571; 2003-214, s. 1(3); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, ss. 17.1(n), (bbb).)

§ 143B-987. Authority to designate areas for protection of public officials.

(a) The Director of the State Bureau of Investigation is authorized to designate buildings and grounds which constitute temporary residences or temporary offices of any public official being protected under authority of G.S. 143B-986, or any area that will be visited by any such official, a public building or facility during the time of such use.

(b) The Director of the State Bureau of Investigation may, with the consent of the official to be protected, make rules governing ingress to or egress from such buildings, grounds or areas designated under this section. (1981, c. 499, s. 1; 2003-214, s. 1(3); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, ss. 17.1(n), (ccc).)

§ 143B-988: Reserved for future codification purposes.

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§ 143B-990: Reserved for future codification purposes.

§ 143B-991: Reserved for future codification purposes.

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§ 143B-999: Reserved for future codification purposes.

Part 5. Division of Emergency Management.

Subpart A. Emergency Management Division.

§ 143B-1000. Division of Emergency Management of the Department of Public Safety.

(a) There is established, within the Department of Public Safety, the Division of Emergency Management, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Division of Emergency Management shall have the following powers and duties:

(1) Repealed by Session Laws 2011-145, s. 19.1(aa), effective January 1, 2012.

(2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes.

(3) To exercise any other powers vested by law. (2009-397, s. 3; 2011-145, s. 19.1(g), (w), (aa).)

§ 143B-1001: Reserved for future codification purposes.

§ 143B-1002: Reserved for future codification purposes.

§ 143B-1003: Reserved for future codification purposes.

§ 143B-1004: Reserved for future codification purposes.

§ 143B-1005: Reserved for future codification purposes.

§ 143B-1006: Reserved for future codification purposes.

§ 143B-1007: Reserved for future codification purposes.

§ 143B-1008: Reserved for future codification purposes.

§ 143B-1009: Reserved for future codification purposes.

Subpart B. North Carolina Center for Missing Persons.

§ 143B-1010. North Carolina Center for Missing Persons established.

There is established within the Department of Public Safety the North Carolina Center for Missing Persons, which shall be organized and staffed in accordance with applicable laws. The purpose of the Center is to serve as a central repository for information regarding missing persons and missing children, with special emphasis on missing children. The Center may utilize the Federal Bureau of Investigation/National Crime Information Center's missing person computerized file (hereinafter referred to as FBI/NCIC) through the use of the Police Information Network in the North Carolina Department of Justice. (1985, c. 765, s. 1; 1985 (Reg. Sess., 1986), c. 1000, s. 1; 2011-145, s. 19.1(g), (w).)

§ 143B-1011. Definitions.

For the purpose of this Part:

- (1) "Missing child" means a juvenile as defined in G.S. 7B-101 whose location has not been determined, who has been reported as missing to a law-enforcement agency, and whose parent's, spouse's, guardian's or legal custodian's temporary or permanent residence is in North Carolina or is believed to be in North Carolina.
- (2) "Missing person" means any individual who is 18 years of age or older, whose temporary or permanent residence is in North Carolina, or is believed to be in North Carolina, whose location has not been determined, and who has been reported as missing to a law-enforcement agency.
- (3) "Missing person report" is a report prepared on a prescribed form for transmitting information about a missing person or a missing child to an appropriate law-enforcement agency. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 1998-202, s. 13(mm); 2011-145, s. 19.1(w).)

§ 143B-1012. Control of the Center.

The Center is under the direction of the Secretary of the Department of Public Safety and may be organized and structured in a manner as the Secretary deems appropriate to ensure that the objectives of the Center are achieved. The Secretary may employ those Center personnel as the General Assembly may authorize and provide funding for. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2011-145, s. 19.1(g), (w).)

§ 143B-1013. Secretary to adopt rules.

The Secretary shall adopt rules prescribing:

- (1) procedures for accepting and disseminating information maintained at the Center;
- (2) the confidentiality of the data and information, including the missing person report, maintained by the Center;
- (3) the proper disposition of all obsolete data, including the missing person report; provided, data for an individual who has reached the age of 18 and remains missing must be preserved;
- (4) procedures allowing a communication link with the Police Information Network and the FBI/NCIC's missing person file to ensure compliance with FBI/NCIC policies; and

- (5) forms, including but not limited to a missing person report, considered necessary for the efficient and proper operation of the Center. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2011-145, s. 19.1(w).)

§ 143B-1014. Submission of missing person reports to the Center.

Any parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual may submit a missing person report to the Center of any missing child or missing person, regardless of the circumstances, after having first submitted a missing person report on the individual to the law-enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing, regardless of the circumstances. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2007-469, s. 1; 2011-145, s. 19.1(w).)

§ 143B-1015. Dissemination of missing persons data by law-enforcement agencies.

A law-enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on-duty law-enforcement officers of the missing person report, initiate a statewide broadcast to all appropriate law-enforcement agencies to be on the lookout for the individual, and transmit a copy of the report to the Center. No law enforcement agency shall establish or maintain any policy which requires the observance of any waiting period before accepting a missing person report.

If the report involves a missing child and the report meets the criteria established in G.S. 143B-1021(b), as soon as practicable after receipt of the report, the law enforcement agency shall notify the Center and the National Center for Missing and Exploited Children of the relevant data about the missing child. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2002-126, s. 18.7(a); 2003-191, s. 1; 2007-469, s. 2; 2011-145, s. 19.1(w), (yy).)

§ 143B-1016. Responsibilities of Center.

The Center shall:

- (1) Assist local law-enforcement agencies with entering data about missing persons or missing children into the national missing persons file, ensure that proper entry criteria have been met as set forth by the FBI/NCIC, and confirm entry of the data about the missing persons or missing children;
- (2) Gather and distribute information and data on missing children and missing persons;
- (3) Encourage research and study of missing children and missing persons, including the prevention of child abduction and the prevention of the exploitation of missing children;
- (4) Serve as a statewide resource center to assist local communities in programs and initiatives to prevent child abduction and the exploitation of missing children;
- (5) Continue increasing public awareness of the reasons why children are missing and vulnerability of missing children;
- (6) Achieve maximum cooperation with other agencies of the State, with agencies of other states and the federal government and with the National Center for

- Missing and Exploited Children in rendering assistance to missing children and missing persons and their parents, guardians, spouses, or legal custodians; and cooperate with interstate and federal efforts to identify deceased individuals;
- (7) Develop and maintain the AMBER Alert System as created by G.S. 143B-1021.
 - (8) Forward the appropriate information to the Police Information Network to assist it in maintaining and publishing a bulletin of currently missing children and missing persons;
 - (9) Maintain a directory of existing public and private agencies, groups, and individuals that provide effective assistance to families in the areas of prevention of child abduction, location of missing children and missing persons, and follow-up services to the child or person and family, as determined by the Secretary of Public Safety;
 - (10) Annually compile and publish reports on the actual number of children and persons missing each year, listing the categories and causes, when known, for the disappearances;
 - (11) Provide follow-up referrals for services to missing children or persons and their families;
 - (12) Maintain a toll-free 1-800 telephone service that will be in service at all times; and
 - (13) Perform such other activities that the Secretary of Public Safety considers necessary to carry out the intent of its mandate. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2002-126, s. 18.7(b); 2003-191, s. 2; 2011-145, s. 19.1(g), (w), (zz).)

§ 143B-1017. Duty of individuals to notify Center and law-enforcement agency when missing person has been located.

Any parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual who submits a missing person report to a law-enforcement agency or to the Center, shall immediately notify the law-enforcement agency and the Center of any individual whose location has been determined. The Center shall confirm the deletion of the individual's records from the FBI/NCIC's missing person file, as long as there are no grounds for criminal prosecution, and follow up with the local law-enforcement agency having jurisdiction of the records. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2007-469, s. 3; 2011-145, s. 19.1(w).)

§ 143B-1018. Release of information by Center.

The following may make inquiries of, and receive data or information from, the Center:

- (1) Any police, law-enforcement, or criminal justice agency investigating a report of a missing or unidentified person or child, whether living or deceased.
- (2) A court, upon a finding by the court that access to the data, information, or records of the Center may be necessary for the determination of an issue before the court.
- (3) Any district attorney of a prosecutorial district as defined in G.S. 7A-60 in this State or the district attorney's designee or representative.
- (4) Any person engaged in bona fide research when approved by the Secretary; provided, no names or addresses may be supplied to this person.
- (5) Any other person authorized by the Secretary of the Department of Public Safety pursuant to G.S. 143B-1013. (1985 (Reg. Sess., 1986), c. 1000, s. 1;

1987, c. 282, s. 28; 1987 (Reg. Sess., 1988), c. 1037, s. 119; 2011-145, s. 19.1(g), (w), (aaa).)

§ 143B-1019. Provision of toll-free service; instructions to callers; communication with law-enforcement agencies.

The Center shall provide a toll-free telephone line for anyone to report the disappearance of any individual or the sighting of any missing child or missing person. The Center personnel shall instruct the caller, in the case of a report concerning the disappearance of an individual, of the requirements contained in G.S. 143B-1014 of first having to submit a missing person report on the individual to the law-enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing. Any law-enforcement agency may retrieve information imparted to the Center by means of this phone line. The Center shall directly communicate any report of a sighting of a missing person or a missing child to the law-enforcement agency having jurisdiction in the area of disappearance or sighting. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 2007-469, s. 4; 2011-145, s. 19.1(w), (bbb).)

§ 143B-1020. Improper release of information; penalty.

Any person working under the supervision of the Director of Victims and Justice Services who knowingly and willfully releases, or authorizes the release of, any data, information, or records maintained or possessed by the Center to any agency, entity, or person other than as specifically permitted by Subpart B or in violation of any rule adopted by the Secretary is guilty of a Class 2 misdemeanor. (1985 (Reg. Sess., 1986), c. 1000, s. 1; 1993, c. 539, s. 1050; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 19.1(w).)

§ 143B-1021. North Carolina AMBER Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the AMBER Alert System. The purpose of AMBER Alert is to provide a statewide system for the rapid dissemination of information regarding abducted children.

(b) The AMBER Alert System shall make every effort to disseminate information on missing children as quickly as possible when the following criteria are met:

- (1) The child is 17 years of age or younger;
- (2) The abduction is not known or suspected to be by a parent of the child, unless the child's life is suspected to be in danger of injury or death;
- (3) The child is believed:
 - a. To have been abducted, or
 - b. To be in danger of injury or death;
- (4) The child is not a runaway or voluntarily missing; and
- (5) The abduction has been reported to and investigated by a law enforcement agency.

If the abduction of the child is known or suspected to be by a parent of the child, the Center, in its discretion, may disseminate information through the AMBER Alert System if the child is believed to be in danger of injury or death.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the AMBER Alert System and shall provide education and training to encourage radio and television broadcasters to participate in the System. The Center shall work

with the Department of Justice in developing training material regarding the AMBER Alert System for law enforcement, broadcasters, and community interest groups.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section, when information is available that would enable motorists to assist law enforcement in the recovery of the missing child. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign.

(e) The Center shall consult with the Division of Emergency Management, in the Department of Public Safety, to develop a procedure for the use of the Emergency Alert System to provide information on the abduction of a child meeting the criteria established in subsection (b) of this section.

(f) The Department of Public Safety, on behalf of the Center, may accept grants, contributions, devises, and gifts, which shall be kept in a separate fund, which shall be nonreverting, and shall be used to fund the operations of the Center and the AMBER Alert System. (2002-126, s. 18.7(c); 2003-191, s. 3; 2011-145, s. 19.1(g), (w); 2011-284, s. 103.)

§ 143B-1022. North Carolina Silver Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the Silver Alert System. The purpose of the Silver Alert System is to provide a statewide system for the rapid dissemination of information regarding a missing person or missing child who is believed to be suffering from dementia, Alzheimer's disease, or a disability that requires them to be protected from potential abuse or other physical harm, neglect, or exploitation.

(b) If the Center receives a request that involves a missing person or missing child as described in subsection (a) of this section, the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing person or missing child. The Center shall make every effort to disseminate the information as quickly as possible when the person's or child's status as missing has been reported to a law enforcement agency.

(c) The Center shall adopt guidelines and develop procedures for issuing an alert for missing persons and missing children as described in subsection (a) of this section and shall provide education and training to encourage radio and television broadcasters to participate in the alert. The guidelines and procedures shall ensure that specific health information about the missing person or missing child is not made public through the alert or otherwise.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the missing person or missing child meeting the criteria of this section when information is available that would enable motorists to assist in the recovery of the missing person or missing child. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign. (2007-469, s. 5; 2008-83, s. 1; 2009-143, s. 1; 2010-96, s. 16; 2011-145, s. 19.1(w); 2016-87, s. 3.)

§ 143B-1023. North Carolina Blue Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the Blue Alert System. The purpose of the Blue Alert System is to aid in the apprehension of a suspect who

kills or inflicts serious bodily injury on a law enforcement officer by providing a statewide system for the rapid dissemination of information regarding the suspect. The term "serious bodily injury" is as defined in G.S. 14-32.4(a).

(b) The Center shall make every effort to rapidly disseminate information on a suspect when the following criteria are met:

- (1) A law enforcement officer is killed or suffers serious bodily injury.
- (2) A law enforcement agency with jurisdiction (i) determines that the suspect poses a threat to the public and other law enforcement personnel and (ii) possesses information that may assist in locating the suspect, including information regarding the suspect's vehicle, complete or partial license plate information, and a detailed description of the suspect, or that a law enforcement officer is missing while on duty under circumstances warranting concern for the law enforcement officer's safety.
- (3) The head of a law enforcement agency with jurisdiction recommends the issuance of a blue alert to the Center.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the Blue Alert System and shall provide education and training to encourage radio and television broadcasters to participate in the alert.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on a suspect when the criteria established in subsection (b) of this section are met. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on the overhead permanent changeable message sign pursuant to the issuance of a blue alert.

(e) The Center shall consult with the Division of Emergency Management in the Department of Public Safety to develop a procedure for the use of the Blue Alert System to provide information on a suspect when the criteria established in subsection (b) of this section are met. (2016-87, s. 1.)

§ 143B-1024: Reserved for future codification purposes.

§ 143B-1025: Reserved for future codification purposes.

§ 143B-1026: Reserved for future codification purposes.

§ 143B-1027: Reserved for future codification purposes.

§ 143B-1028: Reserved for future codification purposes.

§ 143B-1029: Reserved for future codification purposes.

Subpart C. Civil Air Patrol

§ 143B-1030. Civil Air Patrol Section – powers and duties.

(a) There is hereby established, within the Department of Public Safety the Civil Air Patrol Section, which shall be organized and staffed in accordance with this Subpart and within the limits of authorized appropriations.

- (b) The Civil Air Patrol Section shall:
- (1) Receive and supervise the expenditure of State funds provided by the General Assembly or otherwise secured by the State of North Carolina for the use and benefit of the North Carolina Wing-Civil Air Patrol;
 - (2) Supervise the maintenance and use of State provided facilities and equipment by the North Carolina Wing-Civil Air Patrol;
 - (3) Receive, from State and local governments, their agencies, and private citizens, requests for State approval for assistance by the North Carolina Wing-Civil Air Patrol in natural or man-made disasters or other emergency situations. Such State requested and approved missions shall be approved or denied by the Secretary of Public Safety or his designee under such rules, terms and conditions as are adopted by the Department. (1979, c. 516, s. 1; 2011-145, s. 19.1(g), (w), (bb2); 2011-391, s. 43(k).)

§ 143B-1031. Personnel and benefits.

(a) The Wing Commander of the North Carolina Wing-Civil Air Patrol shall certify to the Secretary or his designee those members who are in good standing as members eligible for benefits. The Wing Commander shall provide the Secretary with two copies of the certification. The Secretary shall acknowledge receipt of, sign, and date both copies and return one to the Wing Commander. The Wing Commander shall, in the form and manner provided above, notify the Secretary of any changes in personnel within 30 days thereof. Upon the Secretary's signature, those members listed on the certification shall be eligible for the benefits listed below.

(b) Those members of the North Carolina Wing-Civil Air Patrol certified under subsection (a) of this section shall be deemed and considered employees of the Department of Public Safety for workers' compensation purposes, and for no other purposes, while performing duties incident to a State approved mission. Such period of employment shall not extend to said members while performing duties incident to a United States Air Force authorized mission or any other Wing activities. (1979, c. 516, s. 1; c. 714, s. 2; 1993, c. 389, s. 2; 2011-145, s. 19.1(g), (w).)

§ 143B-1032. State liability.

Unless otherwise specifically provided, the members of the North Carolina Wing-Civil Air Patrol shall serve without compensation and shall not be entitled to the benefits of the retirement system for teachers and State employees as set forth in Chapter 135 of the General Statutes. The provisions of Article 31 of Chapter 143 of the General Statutes, with respect to tort claims against State departments and agencies, shall not be applicable to the activities of the North Carolina Wing-Civil Air Patrol, unless those activities are State-approved missions which are not covered by the Federal Tort Claims Act. The State shall not in any manner be liable for any of the contracts, debts, or obligations of the said organization. (1979, c. 516, s. 1; 1993, c. 389, s. 1; 2011-145, s. 19.1(w).)

§ 143B-1033: Reserved for future codification purposes.

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§ 143B-1035: Reserved for future codification purposes.

§ **143B-1036**: Reserved for future codification purposes.

§ **143B-1037**: Reserved for future codification purposes.

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§ 143B-1099: Reserved for future codification purposes.

Part 6. Division of Administration.

Subpart A. Governor's Crime Commission.

§ 143B-1100. Governor's Crime Commission – creation; composition; terms; meetings, etc.

(a) There is hereby created the Governor's Crime Commission of the Department of Public Safety. The Commission shall consist of 37 voting members and five nonvoting members. The composition of the Commission shall be as follows:

(1) The voting members shall be:

a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or the Chief Justice's designee), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department

- of Health and Human Services, the Secretary of Public Safety (or the Secretary's designee), and the Superintendent of Public Instruction;
- b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;
 - c. A defense attorney, three sheriffs (one of whom shall be from a "high crime area"), three police executives (one of whom shall be from a "high crime area"), eight citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one advocate for victims of all crimes, one representative from a domestic violence or sexual assault program, one representative of a "private juvenile delinquency program," and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;
 - d. Four public members.
- (2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Deputy Chief of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is responsible for Intervention/Prevention programs, the Deputy Chief of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who is responsible for Youth Development programs, the Section Chief of the Section of Prisons of the Division of Adult Correction and Juvenile Justice and the Section Chief of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice.
- (b) The membership of the Commission shall be selected as follows:
 - (1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety, the Director of the State Bureau of Investigation, the Section Chief of the Section of Prisons of the Division of Adult Correction and Juvenile Justice, the Section Chief of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice, the Deputy Chief who is responsible for Intervention/Prevention of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the Deputy Chief who is responsible for Youth Development of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.
 - (2) The following members shall be appointed by the Governor: the district attorney, the defense attorney, the three sheriffs, the three police executives, the

eight citizens, the three county commissioners or county officials, the three mayors or municipal officials.

- (3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.
- (4) Two public members provided by sub-subdivision (a)(1)d. of this section shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives and two public members provided by sub-subdivision (a)(1)d. of this section shall be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.
- (5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed under subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The public members appointed pursuant to subdivision (4) of subsection (b) of this section shall serve two-year terms effective March 1, of each odd-numbered year. Any Commission member no longer serving in the office from which the member qualified for appointment shall be disqualified from serving on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance or nonfeasance.

(e) The Commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business.

(f) The Commission shall be treated as a board for purposes of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. (1965, c. 663; 1977, c. 11, s. 1; 1981, c. 467, ss. 1-5; 1981 (Reg. Sess., 1982), c. 1189, s. 4; 1991, c. 739, s. 32; 1997-443, s. 11A.118(a); 1998-170, s. 3; 1998-202, s. 4(aa); 1999-423, s. 11; 2000-137, s. 4(ee); 2001-95, s. 6; 2001-487, s. 47(g); 2007-454, s. 1; 2010-169, s. 11; 2011-145, s. 19.1(g), (i)-(l), (x); 2012-83, s. 54; 2013-410, s. 13; 2015-9, ss. 2.3(a), (b); 2015-264, ss. 79(a), (b); 2017-6, s. 3; 2017-186, s. 2(kkkkkk).)

§ 143B-1101. Governor's Crime Commission – powers and duties.

(a) The Governor's Crime Commission shall have the following powers and duties:

- (1) To serve, along with its adjunct committees, as the chief advisory board to the Governor and to the Secretary of the Department of Public Safety on matters pertaining to the criminal justice system.

- (2) To recommend a comprehensive statewide plan for the improvement of criminal justice throughout the State which is consistent with and serves to foster the following established goals of the criminal justice system:
 - a. To reduce crime,
 - b. To protect individual rights,
 - c. To achieve justice,
 - d. To increase efficiency in the criminal justice system,
 - e. To promote public safety,
 - f. To provide for the administration of a fair and humane system which offers reasonable opportunities for adjudicated offenders to develop progressively responsible behavior, and
 - g. To increase professional skills of criminal justice officers.
- (3) To advise State and local law-enforcement agencies in improving law enforcement and the administration of criminal justice;
- (4) To make studies and recommendations for the improvement of law enforcement and the administration of criminal justice;
- (5) To encourage public support and respect for the criminal justice system in North Carolina;
- (6) To seek ways to continue to make North Carolina a safe and secure State for its citizens;
- (7) To recommend objectives and priorities for the improvement of law enforcement and criminal justice throughout the State;
- (8) To recommend recipients of grants for use in pursuing its objectives, under such conditions as are deemed to be necessary;
- (9) To serve as a coordinating committee and forum for discussion of recommendations from its adjunct committees formed pursuant to G.S. 143B-1102; and
- (10) To serve as the primary channel through which local law-enforcement departments and citizens can lend their advice, and state their needs, to the Department of Public Safety.

(b) The Governor's Crime Commission shall review the level of gang activity throughout the State and assess the progress and accomplishments of the State, and of local governments, in preventing the proliferation of gangs and addressing the needs of juveniles who have been identified as being associated with gang activity.

(c) All directives of the Governor's Crime Commission shall be administered by the Director, Crime Control Division of the Department of Public Safety. (1975, c. 663; 1977, c. 11, s. 2; 1979, c. 107, s. 11; 1981, c. 931, s. 3; 1981 (Reg. Sess., 1982), c. 1191, s. 15; 2008-56, s.7; 2008-187, s. 44.5(b); 2011-145, ss. 19.1(g), (x), (xx); 2014-100, s. 16A.2; 2015-241, s. 16B.3(b).)

§ 143B-1102. Adjunct committees of the Governor's Crime Commission – creation; purpose; powers and duties.

(a) There are hereby created by way of extension and not limitation, the following adjunct committees of the Governor's Crime Commission: the Judicial Planning Committee, the Juvenile Justice Planning Committee, the Law Enforcement Planning Committee, the Corrections Planning Committee, and the Juvenile Code Revision Committee.

(b) The composition of the adjunct committees shall be as designated by the Governor by executive order, except for the Judicial Planning Committee, the composition of which shall be designated by the Supreme Court. The Governor's appointees shall serve two-year terms beginning March 1, of each odd-numbered year, and members of the Judicial Planning Committee shall serve at the pleasure of the Supreme Court.

(c) The adjunct committees created herein shall report directly to the Governor's Crime Commission and shall have the following powers and duties:

- (1) The Law Enforcement Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to law enforcement, including detention; shall participate in the development of the law-enforcement component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of law-enforcement services; and shall offer technical assistance to State and local agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of law-enforcement services.

The Law Enforcement Planning Committee shall maintain contact with the National Commission on Accreditation for Law Enforcement Agencies, assist the National Commission in the furtherance of its efforts, adapt the work of the National Commission by an analysis of law-enforcement agencies in North Carolina, develop standards for the accreditation of law-enforcement agencies in North Carolina, make these standards available to those law-enforcement agencies which desire to participate voluntarily in the accreditation program, and assist participants to achieve voluntary compliance with the standards.

- (2) The Judicial Planning Committee (which shall be appointed by the Supreme Court) shall establish court improvement priorities, define court improvement programs and projects, and develop an annual judicial plan in accordance with the Crime Control Act of 1976 (Public Law 94-503); shall advise the Governor's Crime Commission on all matters which are referred to it relevant to the courts; shall consider and recommend priorities for the improvement of judicial services; and shall offer technical assistance to State agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of judicial services.
- (3) The Corrections Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to corrections; shall participate in the development of the adult corrections component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of correction services; and shall offer technical assistance to State agencies in the planning and implementation of programs contemplated by the comprehensive plan for the improvement of corrections.
- (4) The Juvenile Justice Planning Committee shall advise the Governor's Crime Commission on all matters which are referred to it relevant to juvenile justice; shall participate in the development of the juvenile justice component of the State's comprehensive plan; shall consider and recommend priorities for the improvement of juvenile justice services; and shall offer technical assistance to State and local agencies in the planning and implementation of programs

contemplated by the comprehensive plan for the improvement of juvenile justice.

- (5) The Juvenile Code Revision Committee shall study problems relating to young people who come within the juvenile jurisdiction of the district court as defined by Article 23 of Chapter 7A of the General Statutes and develop a legislative plan which will best serve the needs of young people and protect the interests of the State; shall study the existing laws, services, agencies and commissions and recommend whether they should be continued, amended, abolished or merged; and shall take steps to insure that all agencies, organizations, and private citizens in the State of North Carolina have an opportunity to lend advice and suggestions to the development of a revised juvenile code. If practical, the Committee shall submit a preliminary report to the General Assembly prior to its adjournment in 1977. It shall make a full and complete report to the General Assembly by March 1, 1979. This adjunct committee shall terminate on February 28, 1979.

(d) The Governor shall have the power to remove any member of any adjunct committee from the Committee for misfeasance, malfeasance or nonfeasance. Each Committee shall meet at the call of the chairman or upon written request of one third of its membership. A majority of a committee shall constitute a quorum for the transaction of business.

(e) The actions and recommendations of each adjunct committee shall be subject to the final approval of the Governor's Crime Commission. (1975, c. 663; 1977, c. 11, s. 3; 1981, c. 605, s. 1; 1983 (Reg. Sess., 1984), c. 995, s. 8; 2011-145, s. 19.1(x).)

§ 143B-1103. Additional duties of the Grants Management Section.

(a) Repealed by Session Laws 2011-145, s. 19.1(wv), effective January 1, 2012.

(b) The Grants Management Section shall administer the State Law Enforcement Assistance Program and such additional related programs as may be established by or assigned to the Section. It shall serve as the single State planning agency for purposes of the Crime Control Act of 1976 (Public Laws 94-503). Administrative responsibilities shall include, but are not limited to, the following:

- (1) Compiling data, establishing needs and setting priorities for funding and policy recommendations for the Governor's Crime Commission;
- (2) Preparing and revising statewide plans for adoption by the Governor's Crime Commission which are designed to improve the administration of criminal justice and to reduce crime in North Carolina;
- (3) Advising State and local interests of opportunities for securing federal assistance for crime reduction and for improving criminal justice administration and planning within the State of North Carolina;
- (4) Stimulating and seeking financial support from federal, State, and local government and private sources for programs and projects which implement adopted criminal justice administration improvement and crime reduction plans;
- (5) Assisting State agencies and units of general local government and combinations thereof in the preparation and processing of applications for financial aid to support improved criminal justice administration, planning and crime reduction;

- (6) Encouraging and assisting coordination at the federal, State, and local government levels in the preparation and implementation of criminal justice administration improvements and crime reduction plans;
- (7) Applying for, receiving, disbursing, and auditing the use of funds received for the program from any public and private agencies and instrumentalities for criminal justice administration, planning, and crime reduction purposes;
- (8) Entering into, monitoring, and evaluating the results of contracts and agreements necessary or incidental to the discharge of its assigned responsibilities;
- (9) Providing technical assistance to State and local law-enforcement agencies in developing programs for improvement of the law-enforcement and criminal justice system; and
- (10) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities.

(c) Repealed by Session Laws 2011-145, s. 19.1(ww), effective January 1, 2012. (1977, c. 11, s. 4; 2011-145, s. 19.1(x), (ww).)

§ 143B-1104. Funding for programs.

(a) Annually, the Division of Administration shall develop and implement a funding mechanism for programs that meet the standards developed under Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes. The Division shall ensure that the guidelines for the State and local partnership's funding process include the following requirements:

- (1) Fund effective programs. – The Division shall fund programs that it determines to be effective in preventing delinquency and recidivism. Programs that have proven to be ineffective shall not be funded.
- (2) Use a formula for the distribution of funds. – A funding formula shall be developed that ensures that even the smallest counties will be able to provide the basic prevention and alternative services to juveniles in their communities.
- (3) Allow and encourage local flexibility. – A vital component of the State and local partnership established by this section is local flexibility to determine how best to allocate prevention and alternative funds.
- (4) Combine resources. – Counties shall be allowed and encouraged to combine resources and services.

(b) The Division shall adopt rules to implement this section. The Division shall provide technical assistance to County Councils and shall require them to evaluate all State-funded programs and services on an ongoing and regular basis.

(c) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and annually thereafter, on the results of the alternatives to commitment demonstration programs funded by Section 16.7 of S.L. 2004-124. The 2007 report and all annual reports thereafter shall also include projects funded by Section 16.11 of S.L. 2005-276 for the 2005-2006 fiscal year. Specifically, the report shall provide a detailed description of each of the demonstration programs, including the numbers of juveniles served, their adjudication status at the time of service, the services/treatments provided, the length of service, the total cost per juvenile, and the six- and 12-month recidivism rates for the juveniles after the termination of program services. (1998-202,

s. 1(b); 2000-137, s. 1(b); 2005-276, s. 16.11(c); 2011-145, ss. 19.1(l), (x), (ggg); 2017-186, s. 2(IIII).)

§ 143B-1105. Grants reporting.

(a) State Grants. – Beginning August 1, 2018, and annually thereafter, the Governor's Crime Commission (Commission) shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety (Committee) on all grant awards made by the Commission from State funds during the prior fiscal year. The report shall contain all of the following information:

- (1) The name of the unit of local government receiving the grant.
- (2) The purpose of the grant.
- (3) The economic tier of the county where the unit of local government receiving the grant is located.
- (4) Any recommended changes to State-funded grant programs to benefit local law enforcement agencies.

(b) Federal Grants. – Beginning December 1, 2018, and annually thereafter, the Commission shall report to the chairs of the Committee on Justice and Public Safety on all grant awards made by the Commission from federal funds during the prior federal fiscal year. The report shall contain all of the following information:

- (1) A list of all federal grants administered in the prior federal fiscal year.
- (2) The names of all entities receiving federal grants.
- (3) The amount, the purpose, and the terms of each grant.
- (4) Whether there are any terms, conditions, or other contingencies that may arise as a result of a freeze on federal funds or result in compliance issues.
- (5) A list of any penalties that have been assessed. The list shall include the entity against which the penalty was assessed, the reason for the assessment, and the source of funds used to pay any penalty.

(c) Reporting Notice of Penalty. – The Commission shall notify the chairs of the Committee of the receipt of any notice of assessment or notice of penalty. The Commission must notify the chairs in writing, within 30 days of the receipt of the notice, and must include a copy of the notice and any subsequent correspondence by the Commission with the agency assessing the penalty. (2018-5, s. 16.2(a).)

§ 143B-1106: Reserved for future codification purposes.

§ 143B-1107: Reserved for future codification purposes.

§ 143B-1108: Reserved for future codification purposes.

§ 143B-1109: Reserved for future codification purposes.

§ 143B-1110: Reserved for future codification purposes.

§ 143B-1111: Reserved for future codification purposes.

§ 143B-1112: Reserved for future codification purposes.

§ 143B-1113: Reserved for future codification purposes.

§ 143B-1114: Reserved for future codification purposes.

§ 143B-1115: Reserved for future codification purposes.

§ 143B-1116: Reserved for future codification purposes.

§ 143B-1117: Reserved for future codification purposes.

§ 143B-1118: Reserved for future codification purposes.

§ 143B-1119: Reserved for future codification purposes.

§ 143B-1120: Reserved for future codification purposes.

§ 143B-1121: Reserved for future codification purposes.

§ 143B-1122: Reserved for future codification purposes.

§ 143B-1123: Reserved for future codification purposes.

§ 143B-1124: Reserved for future codification purposes.

§ 143B-1125: Reserved for future codification purposes.

§ 143B-1126: Reserved for future codification purposes.

§ 143B-1127: Reserved for future codification purposes.

§ 143B-1128: Reserved for future codification purposes.

§ 143B-1129: Reserved for future codification purposes.

§ 143B-1130: Reserved for future codification purposes.

§ 143B-1131: Reserved for future codification purposes.

§ 143B-1132: Reserved for future codification purposes.

§ 143B-1133: Reserved for future codification purposes.

§ 143B-1134: Reserved for future codification purposes.

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§ 143B-1144: Reserved for future codification purposes.

§ 143B-1145: Reserved for future codification purposes.

§ 143B-1146: Reserved for future codification purposes.

§ 143B-1147: Reserved for future codification purposes.

§ 143B-1148: Reserved for future codification purposes.

§ 143B-1149: Reserved for future codification purposes.

Subpart B. Treatment for Effective Community Supervision Program.

§ 143B-1150. Short title.

This Subpart is the "Treatment for Effective Community Supervision Act of 2011" and may be cited by that name. (2011-192, s. 6(b).)

§ 143B-1151. Legislative policy.

The policy of the General Assembly with respect to the Treatment for Effective Community Supervision Program is to support the use of evidence-based practices to reduce recidivism and to promote coordination between State and community-based corrections programs. (2011-192, s. 6(b).)

§ 143B-1152. Definitions.

The following definitions apply in this Subpart:

- (1) Certified and licensed. – North Carolina Substance Abuse Professional Practice Board certified or licensed substance abuse professionals or Department of Health and Human Services licensed agencies.
- (2) Division. – The Division of Adult Correction and Juvenile Justice.

- (3) Repealed by Session Laws 2012-83, s. 55, effective June 26, 2012.
- (4) Eligible entity. – A local or regional government, a nongovernmental entity, or collaborative partnership that demonstrates capacity to provide services that address the criminogenic needs of offenders.
- (5) Program. – A community-based corrections program.
- (6) Secretary. – The Secretary of Public Safety.
- (6a) Section. – The Section of Community Corrections of the Division of Adult Correction and Juvenile Justice.
- (7) State Board. – The State Community Corrections Advisory Board. (2011-145, ss. 19.1(h), (k); 2011-192, s. 6(b); 2012-83, s. 55; 2017-186, s. 2(mmmmmm).)

§ 143B-1153. Goals of community-based corrections programs funded under this Subpart.

The goals of community-based programs funded under this Subpart are to reduce recidivism and to reduce the rate of probation and post-release supervision revocations from the rate in the 2009-2010 fiscal year. (2011-192, s. 6(b).)

§ 143B-1154. Eligible population.

(a) An eligible offender is an adult offender who was convicted of a misdemeanor or a felony offense or is sentenced under the conditional discharge program as defined in G.S. 90-96 and meets any one of the following criteria:

- (1) Received a nonincarcerative sentence of a community punishment.
- (2) Received a nonincarcerative sentence of an intermediate punishment.
- (3) Is serving a term of parole or post-release supervision after serving an active sentence of imprisonment.
- (b) The priority populations for programs funded under this Subpart shall be as follows:
 - (1) Offenders convicted of a felony or offenders sentenced under G.S. 90-96 conditional discharge for a felony offense.
 - (2) Offenders identified by the Division of Adult Correction and Juvenile Justice using a validated risk assessment instrument to have a high likelihood of reoffending and a moderate to high need for substance abuse treatment. (2011-145, s. 19.1(h); 2011-192, s. 6(b); 2017-186, s. 2(nnnnnn).)

§ 143B-1155. Duties of Division of Adult Correction and Juvenile Justice.

(a) In addition to those otherwise provided by law, the Division of Adult Correction and Juvenile Justice shall have the following duties:

- (1) To enter into contractual agreements with eligible entities for the operation of community-based corrections programs and monitor compliance with those agreements.
- (2) To develop the minimum program standards, policies, and rules for community-based corrections programs and to consult with the Department of Health and Human Services on those standards, policies, and rules that are applicable to licensed and credentialed substance abuse services.
- (3) To monitor, oversee, and evaluate contracted service providers.
- (4) To act as an information clearinghouse regarding community-based corrections programs.

- (5) To collaborate with the Department of Health and Human Services on focusing treatment resources on high-risk and moderate to high need offenders on probation, parole, and post-release supervision.
- (b) The Section of Community Corrections of the Division of Adult Correction and Juvenile Justice shall develop and publish a recidivism reduction plan for the State that accomplishes the following:
 - (1) Articulates a goal of reducing revocations among people on probation and post-release supervision by twenty percent (20%) from the rate in the 2009-2010 fiscal year.
 - (2) Identifies the number of people on probation and post-release supervision in each county that are in the priority population and have a likely need for substance abuse and/or mental health treatment, employment, education, and/or housing.
 - (3) Identifies the program models that research has shown to be effective at reducing recidivism for the target population and ranks those programs based on their cost-effectiveness.
 - (4) Propose a plan to fund the provision of the most cost-effective programs and services across the State. The plan shall describe the number and types of programs and/or services to be funded in each region of the State and how that program capacity compares with the needs of the target population in that region.
- (c) The Department of Public Safety, Community Corrections Section, shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the status of the programs funded through the Treatment for Effective Community Supervision Program. The report shall include the following information from each of the following components:
 - (1) Recidivism Reduction Services:
 - a. The method by which offenders are referred to the program.
 - b. The target population.
 - c. The amount of services contracted for and the amount of funding expended in each fiscal year.
 - d. The supervision type.
 - e. The risk level of the offenders served.
 - f. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - g. The demographics of the population served.
 - h. The number and kind of mandatory and optional services received by offenders in this program.
 - i. Employment status at entry and exit.
 - j. Supervision outcomes, including completion, revocation, and termination.
 - (2) Community Intervention Centers (CIC):
 - a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.

- d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. Supervision outcomes, including completion, revocation, and termination.
- (3) Transitional and Temporary Housing:
- a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.
 - d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. The employment status at entry and exit.
 - h. Supervision outcomes, including completion, revocation, and termination.
- (4) Local Reentry Councils (LRC):
- a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.
 - d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. The employment status at entry and exit including, wherever possible, the average wage received at entry and exit.
 - h. Supervision outcomes, including completion, revocation, and termination.
- (5) Intensive Outpatient Services. – If the Department enters into a contract for Intensive Outpatient Services, the Department of Public Safety shall report in the next fiscal year on this service including the following:
- a. The target population.
 - b. The amount of funds contracted for and expended each fiscal year.
 - c. The supervision type.
 - d. The risk level of the offenders served.
 - e. The number of successful and unsuccessful core service exits with a breakdown of reasons for unsuccessful exits.
 - f. The demographics of the population served.
 - g. Supervision outcomes, including completion, revocation, and termination. (2011-145, ss. 19.1(h), (k); 2011-192, s. 6(b); 2012-83, s. 56; 2014-100, s. 16C.7(b); 2016-94, s. 17C.4; 2017-186, s. 2(oooooo).)

§ 143B-1156. Contract for services.

(a) The Division of Adult Correction and Juvenile Justice shall contract with service providers through a competitive procurement process to provide community-based services to offenders on probation, parole, or post-release supervision.

(b) Contracts for substance abuse treatment services shall be awarded to certified or licensed substance abuse professionals and appropriately licensed agencies to provide services and use practices that have a demonstrated evidence base.

(c) The Division of Adult Correction and Juvenile Justice, in partnership with the Department of Health and Human Services, shall develop standard service definitions and performance measures for substance abuse and aftercare support services for inclusion in the contracts.

(d) The percentage of funds received by a service provider that may be used for administrative purposes is up to fifteen percent (15%).

(e) The Division of Adult Correction and Juvenile Justice shall pay service providers the contract base award upon the initiation of services with the remaining payments made as milestones are reached as stated in the contract for services. If the service provider cancels or terminates the contract prior to its conclusion, the service provider shall reimburse the Division for the unearned pro rata portion of the base award.

(f) The Department shall pay service providers the contract base award upon initiation of services with the remaining payments made as milestones are reached as stated in the contract for services. Should the vendor cancel or terminate the contract prior to its conclusion, the vendor shall reimburse the Department for the unearned pro rata portion of the base award. (2011-145, s. 19.1(h); 2011-192, s. 6(b); 2016-77, s. 10; 2016-94, s. 17C.5; 2017-186, ss. 2(pppppp), 3(a).)

§ 143B-1157: Repealed by Session Laws 2016-77, s. 3(a), effective July 1, 2016.

§ 143B-1158: Repealed by Session Laws 2016-77, s. 3(a), effective July 1, 2016.

§ 143B-1159: Repealed by Session Laws 2013-101, s. 5, effective June 12, 2013.

§ 143B-1160. Program types eligible for funding; community-based corrections programs.

Based on the prioritized populations in G.S. 143B-1154(b), program types eligible for funding may include, but are not limited to, the following:

- (1) Substance abuse treatment services, to include co-occurring substance abuse and mental health disorder services, residential, intensive outpatient, outpatient, peer support, and relapse prevention.
- (2) Cognitive behavioral programming and other evidence-based programming deemed to be the most cost-effective method to reduce criminogenic needs identified by the risk/needs assessment. (2011-192, s. 6(b).)

§ 143B-1161. Justice Reinvestment Council.

(a) The Justice Reinvestment Council is established to act as an advisory body to the Commissioner of Adult Correction with regard to this Subpart. The Council shall consist of 13 members as follows, to be appointed as provided in subsection (b) of this section:

- (1) Two members of the Senate.
- (2) Two members of the House of Representatives.
- (3) A judge of the superior court.

- (4) A judge of the district court.
- (5) A district attorney.
- (6) A criminal defense attorney.
- (7) A county sheriff.
- (8) A chief of a city police department.
- (9) A victim service provider.
- (10) A member selected to represent behavioral health services.
- (11) A member selected to represent substance abuse treatment services.
- (b) The membership of the Council shall be selected as follows:
 - (1) The Governor shall appoint the following members: the county sheriff, the chief of a city police department, the member representing behavioral health services, and the member representing substance abuse treatment services.
 - (2) The Lieutenant Governor shall appoint the victim service provider.
 - (3) The Chief Justice of the North Carolina Supreme Court shall appoint the following members: the superior court judge, the district court judge, the district attorney, and the criminal defense attorney.
 - (4) The President Pro Tempore of the Senate shall appoint the two members of the Senate.
 - (5) The Speaker of the House of Representatives shall appoint the two members of the House of Representatives.

In appointing the members of the Council, the appointing authorities shall make every effort to ensure fair geographic representation of the Council membership and to ensure that minority persons and women are fairly represented.

(c) The initial members shall serve staggered terms. The members identified in subdivisions (1) and (2) of subsection (a) of this section shall be appointed initially for a term of one year. The members identified in subdivisions (3) through (7) of subsection (a) of this section shall be appointed initially for a term of two years. The members identified in subdivisions (8) through (11) of subsection (a) of this section shall be appointed initially for a term of three years. The terms of office of the initial members appointed under this section commence effective October 1, 2015.

At the end of their respective terms of office, their successors shall be appointed for terms of three years effective July 1. A vacancy occurring before the expiration of the term of office shall be filled in the same manner as original appointments for the remainder of the term. Members may be reappointed without limitation.

(d) The purpose of the Justice Reinvestment Council in conjunction with the Department of Public Safety, Division of Adult Correction and Juvenile Justice, is to:

- (1) Recommend policy enhancements to the Justice Reinvestment Act of 2011.
- (2) Assist in the continued education of criminal justice system stakeholders.
- (3) Support implementation of the Justice Reinvestment Act of 2011.
- (4) Identify new initiatives that further the implementation of the Justice Reinvestment Act of 2011 and the Adult Corrections Recidivism Reduction Plan. (2016-77, s. 3(b); 2017-186, s. 3(a).)

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§ 143B-1163: Reserved for future codification purposes.

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§ 143B-1193: Reserved for future codification purposes.

§ 143B-1194: Reserved for future codification purposes.

§ 143B-1195: Reserved for future codification purposes.

§ 143B-1196: Reserved for future codification purposes.

§ 143B-1197: Reserved for future codification purposes.

§ 143B-1198: Reserved for future codification purposes.

§ 143B-1199: Reserved for future codification purposes.

Part 7. Office of External Affairs.

§ 143B-1200. Assistance Program for Victims of Rape and Sex Offenses.

(a) Establishment of Program. – There is established an Assistance Program for Victims of Rape and Sex Offenses, hereinafter referred to as the "Program." The Secretary shall administer and implement the Program and shall have authority over all assistance awarded through the Program. The Secretary shall promulgate rules and guidelines for the Program.

(b) Victims to Be Provided Free Forensic Medical Examinations. – It is the policy of this State to arrange for victims to obtain forensic medical examinations free of charge. Whenever a forensic medical examination is conducted as a result of a sexual assault or an attempted sexual assault that occurred in this State, the Program shall pay for the cost of the examination. A medical facility or medical professional that performs a forensic medical examination on the victim of a sexual assault or attempted sexual assault shall not seek payment for the examination except from the Program.

(c) No Billing of Victim. – A medical facility or medical professional that performs a forensic medical examination shall accept payment made under this section as payment in full of the amount owed for the cost of the examination and other eligible expenses and shall not bill victims, their personal insurance, Medicaid, Medicare, or any other collateral source for the examination. Furthermore, a medical facility or medical professional shall not seek reimbursement from the Program after one year from the date of the examination.

(d) Eligible Expenses. – Medical facilities and medical professionals who perform forensic medical examinations shall do so using a Sexual Assault Evidence Collection Kit. Payments by the Program for the forensic medical examination shall be limited to the following:

Service	Maximum Amount
	Paid by Program
Physician or SANE Nurse	\$350.00
Hospital/Facility Fee	\$250.00
Other Expenses Deemed Eligible by the Program	\$200.00
Total:	\$800.00

(e) Payment Directly to Provider. – The Program shall make payment directly to the medical facility or medical professional. Bills submitted to the Program for payment shall specify under which categories of expense set forth in subsection (d) of this section the billed services fall.

(f) Additional Victim Notification Requirements. – A medical facility or medical professional who performs a forensic medical examination shall encourage victims to submit an application for reimbursement of medical expenses beyond the forensic examination to the Crime Victims Compensation Commission for consideration of those expenses. Medical facilities and medical professionals shall not seek reimbursement from the Program after one year from the date of the exam.

(g) Judicial Review. – Upon an adverse determination by the Secretary on a claim for assistance under this Part, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

(h) The Secretary shall adopt rules to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures.

(i) Definitions. – The following definitions apply in this section:

- (1) Forensic medical examination. – An examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include at a minimum an examination of physical trauma, a patient interview, a determination of penetration or force, and a collection and evaluation of evidence. This definition shall be interpreted consistently with 28 C.F.R. § 90.2(b) and other relevant federal law.
- (2) SANE nurse. – A Sexual Assault Nurse Examiner that is a licensed registered nurse trained pursuant to G.S. 90-171.38(b) who obtains preliminary histories, conducts in-depth interviews, and conducts medical examinations of rape victims or victims of related sexual offenses.
- (3) Sexual assault. – Any of the following crimes:
 - a. First-degree forcible rape as defined in G.S. 14-27.21.
 - b. Second-degree forcible rape as defined in G.S. 14-27.22.
 - c. First-degree statutory rape as defined in G.S. 14-27.24.
 - d. Statutory rape of a person who is 15 years of age or younger as defined in G.S. 14-27.25.
 - e. First-degree forcible sexual offense as defined in G.S. 14-27.26.
 - f. Second-degree forcible sexual offense as defined in G.S. 14-27.27.
 - g. First-degree statutory sexual offense as defined in G.S. 14-27.29.

- h. Statutory sexual offense with a person who is 15 years of age or younger as defined in G.S. 14-27.30.
- (4) Sexual Assault Evidence Collection Kit. – The kit assembled and paid for by the Program and used to conduct forensic medical examinations in this State. (1981, c. 931, s. 2; 1981 (Reg. Sess., 1982), c. 1191, s. 16; 2009-354, s. 1(b); 2011-145, s. 19.1(x1); 2011-391, s. 43(i); 2015-181, s. 38.)

§ 143B-1201. Restitution; actions.

(a) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(b) When any victim who:

- (1) Has received assistance under this Part;
- (2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and
- (3) Recovers damages including the expenses for which she was awarded assistance, the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(c) Funds appropriated to the Department of Public Safety for this program may be used to purchase and distribute sexual assault evidence collection kits approved by the Director of the State Crime Laboratory.

(d) The Secretary, in consultation with the Director of the State Crime Laboratory, shall require that all sexual assault evidence collection kits purchased or distributed on or after October 1, 2018, are compatible with the Statewide Sexual Assault Evidence Collection Kit Tracking System established under G.S. 114-65. (1981, c. 931, s. 2; 1983, c. 715, s. 3; 2008-107, s. 18.2(b); 2009-354, s. 2; 2011-145, s. 19.1(g), (x1); 2018-70, s. 2.)

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§ 143B-1209: Reserved for future codification purposes.